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October 15, 1995 - Issue 37: Through	September 30, 1995
January 12, 1996 - Issue 2: Through	December 31, 1995 (Annual)

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June 20, 1995	June 27, 1995	27	July 7, 1995	Dec. 26, 1995	Jan. 2, 1996	2	Jan. 12, 1996

Please note: When the Register deadline falls on a State holiday, the deadline becomes 4:30 p.m. on Monday (the day before).

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NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Franchise Disclosure Act

2) Code Citation: 14 Ill. Adm. Code 200

3) Section Numbers: Proposed Actions:

200.110	Amendment
200.115	New
200.201	Amendment
200.202	Amendment
200.408	Amendment
200.411	Amendment
200.500	Amendment
200.502	Amendment
200.600	Amendment
200.603	Amendment
200.605	Amendment
200.607	Amendment
200.608	New
200.609	New
200.702	Amendment
200.800	Amendment
200.900	Amendment
Appendix A, Illustration A	Amendment
Appendix A, Illustration B	Amendment
Appendix A, Illustration C	Amendment
Appendix A, Illustration D	Amendment
Appendix A, Illustration E	Amendment
Appendix A, Illustration F	Amendment
Appendix A, Illustration G	Amendment
Appendix A, Illustration H	Amendment
Appendix A, Illustration I	Amendment
Appendix A, Illustration J	Amendment
Appendix A, Illustration K	Amendment
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Appendix A, Illustration R	Amendment
Appendix A, Illustration S	Amendment
Appendix A, Illustration T	Amendment
Appendix A, Illustration U	Amendment
Appendix A, Illustration V	Amendment
Appendix A, Illustration W	Amendment
Appendix A, Illustration X	Amendment
Appendix A, Illustration Y	Amendment
Appendix A, Illustration Z	Amendment

4) Statutory Authority: 815 ILCS 705

5) A Complete Description of the Subjects and Issues Involved: These Amendments reflect changes necessitated by the amended Uniform Franchise Offering Circular which was adopted last year by the Federal Trade Commission and is in use throughout the United States. In addition, some Sections involve technical changes and corrections. Other Sections reflect a response to changes in the franchise industry. Finally, some Sections have been amended to clarify interpretation of the Franchise Disclosure Act.

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NOTICE OF PROPOSED AMENDMENTS

Section 200.110(h) is a new Section that indicates that a change in corporate structure is a material change necessitating an Amendment.

Section 200.115 is a new Section which clarifies when an offer for the sale of a franchise occurs.

Section 200.202(b) provides an exemption for a single unit franchise where the initial investment is in excess of \$1,000,000.00. This exemption is intended for a wealthy, sophisticated and knowledgeable investor.

Section 200.607 increases the fee for a copy of an offering circular from \$40.00 to \$50.00.

Section 200.608 clarifies Section 4 of the Franchise Disclosure Act to state that any litigation arising under the Act must be filed in this State. Similarly, this Section prohibits a franchisor from utilizing a choice of law provision in its agreement other than that of this State.

Section 200.609 is intended to prohibit franchisors from engaging in the practice of requiring franchisees to waive the rights granted to them under the Act as a prerequisite condition to the grant of a franchise.

Section 200.Appendix A, Illustrations C, D, K, and L are comprised of the new guidelines required by the Federal Trade Commission's Rule on Franchising, 16 CFR 436.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this part? No

10) Statement of Statewide Policy Objectives: Local Governments are not franchisors or franchisees and are not affected by this amendment.

11) Time, place and manner in which interested persons may comment on this matter: The Attorney General will accept written comments within 45 days after the first publication of notice. Comments should be submitted to:

Christina M. Saunderson
Assistant Attorney General
Franchise Bureau
500 South Second Street
Springfield, Illinois 62706
(217) 782-2538

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NOTICE OF PROPOSED AMENDMENTS

12) Initial Regulatory Flexibility Analysis:

A. Types of small businesses, small municipalities and not for profit corporations affected: The Attorney General does not believe that the proposed amendments will affect small business.

B. Reporting, bookkeeping or other procedures required for compliance: Franchisors who sell franchises continue to be required to obtain an original registration as defined in Section 200.600. Every year thereafter, a franchisor must submit an Annual Report to maintain its registration. The items comprising the Annual Report in Section 200.603 are similar to those items previously required to be submitted for a renewal application. These requirements are less burdensome than those currently required.

C. Types of professional skills necessary for compliance: The financial statements which must be submitted for registration must be prepared by a Certified Public Accountant. This has always been required by the previous Rules and Regulations.

13) State reasons for this rulemaking if it was not included in either of the two (2) most recent regulatory agendas: Attorney General Ryan did not assume his constitutional duties as Attorney General until January 9, 1995. Therefore, it was not possible to assess rulemaking needs for the first six (6) months of this year as would have been needed to file a regulatory agenda on January 1, 1995.

The full text of the proposed amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER II: ATTORNEY GENERAL

PART 200

FRANCHISE DISCLOSURE ACT

SUBPART A: DEFINITIONS

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200.102	Substantially Associated
200.103	Franchise Fee
200.104	Absence of Fee Exclusion
200.105	Bona Fide Wholesale and Retail Price
205.106	Established Market
200.107	Indirect Franchise Fee
200.108	Consideration
200.109	Material Change
200.110	Administrator
200.112	Correspondent
200.113	Negotiated Change
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200.115	

SUBPART B: OPINIONS, EXEMPTIONS

Section	Interpretive Opinions and No Action Letters
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200.201	Exemptions by Rule
200.202	

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Section	Deceptive Practices
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200.301	Opinions of Counsel
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NOTICE OF PROPOSED AMENDMENTS

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SUBPART E: DENIAL BASED ON FINANCIAL STATEMENTS,
 ESCROW, GUARANTY, SURETY BOND

Section
 200.500 Assurance of Financial Ability to Fulfill Obligations
 200.502 Escrow of Funds
 200.503 Release of Escrowed Funds
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 200.602 Notification of Registration
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 200.604 Amendment Application
 200.605 Final Circular Submission
 200.606 Multiple Filings
 200.607 Public Examination and Photocopying of Disclosure Statements
 200.608 Jurisdiction and Venue
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Section
 200.701 Number of Applications
 200.702 Responsibility for Filing the Application
 200.703 Time for Filing the Application (Repealed)

Section
 200.800 SUBPART H: FAILURE TO DILIGENTLY PROSECUTE APPLICATION
 Failure to Diligently Prosecute Application

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NOTICE OF PROPOSED AMENDMENTS

SUBPART I: REGISTRATION OF FRANCHISE BROKERS

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 200.901 Notice of Broker Registration

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 ILLUSTRATION B Supplemental Information
 ILLUSTRATION C Salesman Disclosure
 ILLUSTRATION D Uniform Consent to Service of Process
 ILLUSTRATION E Corporate Acknowledgment
 ILLUSTRATION F Individual or Partnership Acknowledgment
 ILLUSTRATION G Certification Page
 ILLUSTRATION H Consent of Accountant
 ILLUSTRATION K Acknowledgment of Receipt (Suggested Format) (Repealed)
 ILLUSTRATION L Requirements for Preparation of a Uniform Franchise Offering Circular

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APPENDIX E Surety Bond

APPENDIX F Certificate of Deposit Forms

ILLUSTRATION A Franchisor's Petition for Release of Certificate of Deposit
 ILLUSTRATION B Franchisee's Petition for Release of Certificate of Deposit

AUTHORITY: Implementing and authorized by the Franchise Disclosure Act of 1987 (Ill. Rev. Stat. 1991, ch. 121 1/2, pars. 1701 et seq.) [815 ILCS 705].

SOURCE: Filed April 25, 1977, effective May 5, 1977, by the Office of the Secretary of State; transferred to the Attorney General by P.A. 80-31, effective February 28, 1978; rules repealed, new rules adopted and codified at 8 Ill. Reg. 1367, effective January 13, 1984; emergency amendments at 12 Ill. Reg. 1124, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 9424, effective May 18, 1988; amended at 13 Ill. Reg. 15365, effective September 19, 1989; peremptory amendment at 18 Ill. Reg. 2522, effective January 31, 1994; amendment at 19 Ill. Reg. _____, effective _____.

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NOTICE OF PROPOSED AMENDMENTS

SUBPART A: DEFINITIONS

Section 200.110 Material Change

A change in information contained in the disclosure statement is material within the meaning of Section 11 of the Act if there is a substantial likelihood that a reasonable prospective franchisee would consider it significant in making a decision to purchase or not purchase the franchise. Without limitation, examples of changes which could be material include:

- a) Any increase or decrease in the initial or continuing fees charged by the franchisor;
- b) The termination, cancellation, failure to renew or reacquisition of a significant number of franchises since the most recent effective date of the Disclosure Statement;
- c) A change in the franchisor's management;
- d) A change in the franchisor's or franchisee's obligations under the franchise or related agreements;
- e) A decrease in the franchisor's income or net worth; and
- f) Limitations or significant prospective limitations regarding sources of supply which are known to or should reasonably be anticipated by the franchisor; and
- g) Additional litigation or a significant change in the status of litigation including:
 - 1) the filing of an amended complaint alleging or involving violations of any franchise law, fraud, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices, misappropriation of property or breach of contract;
 - 2) the entry of any injunctive or restrictive order relating to the franchise; or the entry of any injunction under any federal, state or Canadian franchise securities, anti-trust trade regulation or trade practice law; and
 - 3) the entry of a judgment that has or would have any significant financial impact on the franchisor. Such a judgment is considered to have significant financial impact if it equals 15% or more of the current assets of the franchisor and its subsidiaries on a consolidated basis; and
- h) The reincorporation of the franchisor or its merger into a corporation other than the registrant. In a merger where the surviving corporation changes its name to that of the original registrant, a material change has still occurred.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 200.115 Offer

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"Offer" or "offer to sell" includes participation in a trade show by a franchisor which is attended by prospective franchisees. A franchisor shall not participate as an exhibitor at a trade show or otherwise attempt to solicit franchise sales at a trade show unless the franchisor is registered with the Administrator or is otherwise exempt from registration.

(Source: Added at 19 Ill. Reg. _____, effective _____)

SUBPART B: OPINIONS, EXEMPTIONS

Section 200.201 Order of Exemption

a) Pursuant to Section 9 of the Act, the Administrator may by Order grant exemptions from the registration and disclosure requirements of the Act. The Administrator will consider whether to issue such an Order upon submission of the following:

- 1) A cover letter describing the basis for the exemption by reference to this Section and to Section 9 of the Act;
 - 2) A description and history of the applicant, the franchise fees and initial investment, and the proposed number of franchise sales in Illinois within the ensuing twelve months;
 - 3) A description of the applicant's litigation history as stated in item 3 of the Uniform Franchise Offering Circular (U.F.O.C.) which is attached as Appendix A, Illustration L;
 - 4) A description of any bankruptcy petition filed by or against the franchisor, its officers, directors or predecessors within the last fifteen years;
 - 5) A copy of the franchise agreement;
 - 6) Copies of all promotional materials;
 - 7) A list of all sales and advertisements in Illinois since January 1, 1974;
 - 8) A list of administrative agencies which have issued or denied exemptions or opinions and copies of the exemptions or opinions;
 - 9) A statement of the number of company owned and franchised units in the United States and in Illinois;
 - 10) A statement of the number of franchises the franchisor intends to sell in Illinois in the following one year;
 - 11) A Federal Trade Commission prospectus or a Uniform Franchise Offering Circular if required by 16 CFR 436 as of 1983;
 - 12) A certification of facts;
 - 13) Financial statements prepared in accordance with Generally Accepted Accounting Principles (GAAP) for the most recent fiscal year if the franchisor is exempt under 16 CFR 436.
- b) Exemption requests will be granted only when in the public interest. An exemption is considered in the public interest:
- 1) If the franchisor intends to sell only one or two franchises in Illinois in the ensuing twelve months; and

ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENTS

- 2) If the litigation and bankruptcy history described in subsection (a) above is not materially adverse to the interest of prospective franchisees; and
- 3) If the franchisor agrees to provide the franchisee with a Federal Trade Commission prospectus, if required by 16 CFR 436, as of 1983, within the time period required by the Federal Trade Commission; and
- 4) If the franchisor obtains a letter from the prospective franchisee's attorney, after issuance of the exemption but within the time period described in Section 5(2) of the Act; stating that he has explained the Act to his client, and the client does not object to issuance of the exemption, and forwards the letter to the Administrator. Prior to procurement of this letter, but after issuance of the exemption, the franchisor may solicit franchisees but may not have a contract signed or require a prospective franchisee or subfranchisor to pay consideration.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 200.202 Exemptions by Rule

- a) The offer and sale of a franchise to a bank, savings institution, trust company, interstate carrier or insurance company is exempt from Sections 5 and 10 of the Act.
- b) The offer and sale of a single unit franchise in which the actual minimum initial investment is in excess of \$1,000,000.00 is exempt from Sections 5 and 10 of the Act.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

SUBPART D: HEARINGS

Section 200.408 Record of Proceedings

- a) A licensed court ~~short~~ reporter called by the Administrator, at its expense, shall be present at each hearing and shall take a permanent and complete record of the proceedings.
- b) Upon request, and at his own expense, any party may have a copy of the record.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 200.411 Final Administrative Decision

- a) A final administrative decision shall be issued by the Administrator

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in writing within one (1) month of receipt of the Hearing Officer's recommendation. The Hearing Officer's recommendation, rulings and findings of fact and law are to be taken into account but are not binding on the Administrator. However the final administrative decision must be based exclusively on evidence in the record. The Administrator may refuse to accept the factual recommendations of the Hearing Officer only when all the evidence, viewed most favorably to the party for whom the Hearing Officer held, so overwhelmingly favors the other party, that no contrary holding based on that evidence could withstand Administrative Review under the Administrative Review Act because the findings of fact of the Hearing Officer are against the manifest weight of the evidence. A copy of the final administrative decision shall be sent by certified or registered mail to each party or his representatives.

- b) The final administrative decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.
- c) The final order of the Administrator shall constitute a final administrative decision within the provisions of the Administrative Review Act [735 ILCS 5/Art. III] (iii--Rev-Stat--1981--ch--1107--par-3--101--et--seq--7).

(Source: Amended at 19 Ill. Reg. _____, effective _____)

SUBPART E: DENIAL BASED ON FINANCIAL STATEMENTS, ESCROW, GUARANTY, SURETY BOND

Section 200.500 Assurance of Financial Ability to Fulfill Obligations

An application will be denied or a registration suspended if the franchisor's financial condition affects or would affect the ability of the franchisor to fulfill its obligations as mentioned in Section 22(a)(8) of the Act unless the franchisor assures that it will be able to meet its obligations to the franchisee as described below:

- a) If, after examination of the financial statements of the franchisor and the duties and obligations of the franchisor contained in the franchise or other agreement to furnish goods and/or services to assist its franchisees in establishing and opening their business, the Administrator determines that adequate financial resources are not available to the franchisor for the performance of said obligations or that the franchisor will depend primarily on the initial franchise fees paid by franchisees as such financial resources (the franchisor has no other apparent source of income or assets), the Administrator will require the franchisor at the franchisor's option to assure financial capability by one of the following means: an escrow of funds, guaranty of performance, the posting of a surety bond, the

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issuance of a Certificate of Deposit, or the deferral of the initial franchise fees until the franchisor has met its obligations to the franchisee and the franchisee has commenced doing business. However, if the franchisor's most recent balance sheet disclosed negative stockholder's equity, then the Administrator will require the franchisor to either post a surety bond, or to escrow funds, or to provide a guarantee of performance at his option.

b) When determining whether adequate financial resources are available, the Administrator shall give consideration to the applicant's recent financial statements. The following criteria shall be considered in making the determination: the auditor's opinion letter or review report, notes to the financial statements, the current ratio, the quick ratio, the amount of working capital, the proportion of tangible and intangible assets, the amount and maturities of debts, the debt/equity ratio, the amount of equity, the earnings history, the proportion of receivables compared to other assets, and the quality of receivables (e.g., financial statements reflect receivables that will not be collected, including bad debts, a debt discharged in bankruptcy, or the failure to allow for aged receivables).

c) Registration under the provisions of this Section shall be limited to the sale of the number of franchises authorized by the Administrator. The Administrator will make that decision based upon the franchisor's demonstrated willingness to fulfill its obligations to a specific number of franchisees.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 200.502 Escrow of Funds

The Administrator may impose as a condition to registration an escrow of not more than 100% of the initial franchise fee paid by a franchisee who is a resident of Illinois to the franchisor or an affiliate of the franchisor until the initial obligations of the franchisor to assist the franchisee to establish and open his business are fulfilled. (See Appendix C, Illustration A.) When an escrow is imposed in connection with the registration of a franchise offering, the escrow account shall comply with the following requirements:

- Checks shall be made payable to the escrowee by the franchisee;
- The account shall be established in a federally insured bank, and the funds shall be kept and maintained in an account separate and apart from the franchisor's business and personal accounts;
- All proceeds so deposited shall remain the property of the franchisee and shall not be subject to any liens or charges by the escrowee or judgments, garnishments, or creditor's claims against the franchisor as hereinafter provided. This escrow is for the benefit of each franchisee in the amount paid by each franchisee;
- At the request of the Administrator, statements indicating the status of the escrow shall be furnished by the bank or trust company to the

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Administrator; and

e) An escrow agreement in the form set forth in Appendix C, Illustration A hereto, shall be entered into between the bank and the franchisee, which shall state that its purpose is to protect the franchisee and shall authorize the Administrator to inspect the records of the bank as escrowee relating thereto, and shall state that, upon order of the Administrator or a court of competent jurisdiction, the escrowee shall release and pay over the funds, or a portion thereof, to the franchisor or franchisees.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

SUBPART F: REGISTRATION REQUIREMENTS

Section 200.600 Original Registration

a) Documents to File

The following materials must be submitted in duplicate to the Administrator to obtain registration:

- 1) Uniform Franchise Registration Application Page, Appendix A, Illustration A;
 - 2) Supplemental Information Page, Appendix A, Illustration B;
 - 3) Salesman Disclosure Form for each salesperson employed by the applicant, Appendix A, Illustration C;
 - 4) Uniform Consent to Service of Process naming the Illinois Attorney General as agent to receive service, with corporate, individual or partnership acknowledgment, Appendix A, Illustration D, E, F, G and H;
 - 5) Certification Page, Appendix A, Illustration G;
 - 6) Auditor's consent letter granting consent to use each audited report in the registration, Appendix A, Illustration H;
 - 7) Advertising or promotional materials;
 - 8) Disclosure Statement in duplicate (See Section 200.101); and
 - 9) A \$500.00 nonrefundable fee payable to the State of Illinois.
- b) Signing of Application: The application shall be signed by an authorized officer of the applicant; however, it may be signed by another person holding a power of attorney for such purposes from the applicant. If signed on behalf of the applicant pursuant to such power of attorney, the application shall include as an additional exhibit a copy of the power of attorney or a copy of the corporate resolution authorizing the attorney to act.

c) Phase In Of Audit Requirement: Franchisors who have never had audited financial statements and are filing their first application with the Administrator may request a phase in of the audit requirement. All unaudited statements must be prepared by an independent CPA in accordance with GAAP. Initial registration will be granted using the unaudited statements which cover the time periods set forth in UPOC

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Item 21. The franchisor must notify its CPA to count the opening inventory at the beginning of the franchisor's fiscal year which commences after the registration has been filed. At the end of that fiscal year, the balance sheet must be audited. The remainder of that financial statements for that fiscal year may be unaudited but must independently be prepared in accordance with GAAP. Financial statements for the following fiscal year must be fully audited. ~~Phase in-of-audit-requirements--franchisors-who-have-never-had-audited financial-statements-and-who-are-filing-their-first-application-with the-Administrator-may-request-a-phase-in-of-the-audit-requirement. All-unaudited-statements-must-be-prepared-by-an-independent-C.P.A. During-the-first-registration-year-all-financial-statements-may-be unaudited--The-franchisor-must-notify-its-C.P.A.-to-count-the-opening inventory-at-the-beginning-of-the-franchisor's-fiscal-year-which commences-during-this-first-registration-year---During-one-second registration-year--the-franchisor's-balance-sheet-must-be-audited. All-other-financial-statements-may-be-unaudited---During-the-third registration-year-and-thereafter--all-of-the-franchisor's-financial statements-must-be-audited.~~

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 200.603 Annual Report

a) To maintain the effectiveness of registration, a franchisor must file the Annual Report required by Section 10 of the Act 30 days prior to the anniversary date of its original registration date. The filing of the Annual Report shall include:

- 1) A non-refundable filing fee of \$100.00;
- 2) Copies of franchisee signed acknowledgments of receipt of the Disclosure Statement in the form shown in Appendix A, Illustration K, listing exhibits that are required by the UFOC (North American Midwest Securities Administrators Committee's Association, September 2, 1975, as amended and effective April 25, 1993 January 17-1988 without further additions or amendments) for all franchises subject to Section 10 of the Act sold since the most recent Annual Report was filed or date of registration in the preceding registration year and copies of corresponding signed and dated contract pages from all such sales;
- 3) Two (2) complete unbound copies of the franchisor's disclosure statement updated as of 120 days of the franchisor's anniversary date. The phase in of the Audit Requirement continues ~~As referenced in Section 200.603(c), during the second year of registration--the-franchisor's-balance-sheet-must-be-audited. During-the-third-registration-year-and-thereafter--all-of-the franchisor's-financial-statements-must-be-audited.~~ If the required audited financial documents are not current within 120

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days of the anniversary date, interim financials prepared in accordance with GAAP consisting of a balance sheet and corresponding income statement for the period between the close of the franchisor's most recent fiscal year and the date of the balance sheet must be submitted. All material changes in the disclosure statement must be underlined in red on one (1) copy of the disclosure statement. The updated disclosure statement shall replace the disclosure statement previously submitted to the Administrator;

- 4) Salesman Disclosure Form for each salesperson employed by the applicant, Appendix A, Illustration C;
- 5) Certification Page, Appendix A, Illustration G;
- 6) Auditor's consent letter granting consent to use each audited report in the registration, Appendix A, Illustration H;
- 7) A cover letter from the correspondent listing all documents submitted in the Annual Report and summarizing the material changes in the disclosure statement;
- b) If the franchise is registered pursuant to conditions required under Section 200.500 and the franchisor has sold that number of franchises previously authorized by the Administrator, additional sales must be authorized by the Administrator in accordance with the terms of Section 200.500;
- c) All other documents listed in Section 200.600 need not be submitted with the Annual Report if the information contained in them is current. If the information contained in those documents is no longer current, updated documents must be filed with the Annual Report; and
- d) If the franchisor fails to timely submit an Annual Report, the Administrator shall enter an order pursuant to Section 22 of the Act declaring that the franchisor's registration is terminated effective as of the anniversary date of its original registration date ~~date-the Annual-Report-was-due.~~ Annual Reports received after the expiration date are invalid. A franchisor whose registration is terminated due to its failure to file an Annual Report must file as an original registrant and comply with Section 200.603(a)(2) and (3) if it desires to offer or sell franchises in this State.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 200.605 Final Circular Submission

A registrant may be required to submit one extra, complete unbound copy of the Disclosure Statement, including all revisions and exhibits, within one month of the date of registration. This requirement applies to original registrations and amendments.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

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Section 200.607 Public Examination and Photocopying of Disclosure Statements

Any disclosure document registered under the Act may be examined at the office of the Administrator or ordered by mail for \$50.00 ~~\$40.00~~ payable to the State of Illinois from the Illinois Attorney General, Franchise Division, 500 South Second Street, Springfield, Illinois 62706.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 200.608 Jurisdiction and Venue

As described in Section 4 of the Act, a franchise agreement shall not require a franchisee to litigate any cause of action, with the exception of arbitration proceedings, arising under the franchise agreement or the Act outside of this State, nor shall a franchise agreement provide for a choice of law provision for any state other than Illinois.

(Source: Added at 19 Ill. Reg. _____, effective _____)

Section 200.609 Waiver

No franchisor shall attempt to circumvent compliance with the Act by requiring a franchisee to execute any document evidencing waiver of any right granted by the Act as described in Section 41 of the Act. This prohibition against waiver includes, but is not limited to, statements involving unregistered earnings claims, timely disclosure, warranty, material misrepresentations or limitation of liability.

(Source: Added at 19 Ill. Reg. _____, effective _____)

SUBPART G: AREA FRANCHISE AND SUBFRANCHISE REGISTRATION REQUIREMENTS-RESPONSIBILITIES FOR FILING

Section 200.702 Responsibility for Filing the Application

a) When both the franchisor and the subfranchisor have performance obligations to the subfranchisee, whether such obligations are set forth in the franchise agreement or other written document or arise as a matter of practice, it is the responsibility of both the franchisor and the subfranchisor to register the offer of the subfranchise. The application for registration regarding the subfranchise shall contain a signature page from both the franchisor and the subfranchisor, each certifying as to the accuracy of the information he supplied, as well as a properly executed consent to service of process from each. Both the franchisor's and subfranchisor's financial statements are to be

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included in the disclosure statement.

b) If the franchise agreement is solely between a subfranchisor and a subfranchisee and the franchisor has no material performance obligations under the franchise or any other agreement, then the responsibility for registering the offer of the subfranchise is that of the subfranchisor. The franchisor need only verify the information in the application that is relevant to the franchisor.

c) If the franchise agreement is solely between the franchisor and the subfranchisee, the subfranchisor is not a signatory to any such agreement, the franchisor has the primary performance obligations to the subfranchisee, then the responsibility for registering the offer of the subfranchise is that of the franchisor. The subfranchisor need only verify the information in the application relevant to the subfranchisor. This subsection will not apply if the area franchise agreement requires the subfranchisor to service subfranchisees, despite the lack of direct privity between the subfranchisor and the subfranchisee.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

SUBPART H: FAILURE TO DILIGENTLY PROSECUTE APPLICATION

Section 200.800 Failure to Diligently Prosecute Application

When an application for registration of a franchise or franchise broker has been on file with the Administrator for a period of at least six months and has not become effective or registered, the Administrator shall proceed in the following manner to determine whether the application has been abandoned by the applicant.

a) A notice will be sent to the applicant and the correspondent by registered or certified mail, return receipt requested, addressed to the most recent addresses for the applicant and the correspondent as contained in the application. The notice will inform the applicant and correspondent that the application is out of date and must either be updated and revised to comply with the Administrator's deficiency letter previously sent under Section 10 of the Act or withdrawn within 30 days after the date of the notice.

b) If the applicant or correspondent fails to respond to such notice by filing a revision or withdrawing the application or does not furnish a satisfactory explanation as to why it has not done so within 30 days, the Administrator will enter an order declaring the application abandoned and will deny such application.

c) The application form will be plainly marked in the following manner: "Declared abandoned and denied by order dated _____."

d) The filing fee is not refundable.

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(Source: Amended at 19 Ill. Reg. _____, effective _____)

SUBPART I: REGISTRATION OF FRANCHISE BROKERS

Section 200.900 Documents to File

Each franchise broker shall file with the Administrator the documents listed below in duplicate and pay an annual \$100.00 registration fee.

- a) Franchise Broker application page, Appendix B, Illustration A;
- b) Certification page, Appendix A, Illustration C;
- c) Salesperson Disclosure Form for each person who will be offering or selling franchises, Appendix A, Illustration C;
- d) Corporate, Partnership or Individual Acknowledgment, Appendix A, Illustrations E and F;
- e) Uniform Consent to Service of Process naming the Illinois Attorney General as agent to receive service, Appendix A, Illustration D;
- f) Broker Authorization Form, Appendix B, Illustration B;
- g) An audited ~~independently-prepared~~ balance sheet and income statement prepared by an independent CPA in accordance with GAAP current within 120 days certifying the net worth of the franchise broker.
 - 1) The net worth of the franchise broker who will accept cash or checks payable to such broker from a prospective franchisee must not be less than \$50,000.00;
 - 2) The net worth of a franchise broker who will not accept cash or checks payable to such broker from a prospective franchisee must not be less than \$5,000.00;
 - 3) In lieu of an audited balance sheet, the broker may post a surety bond in the amount of \$5,000.00 or \$50,000.00 depending on the facts indicated in (g)(1) and (g)(2) above, Appendix B, Illustration C;
 - 4) In lieu of the franchise broker's audited balance sheet the franchise broker may submit an audited balance sheet of a person, corporation or partnership having a net worth of \$5,000 or \$50,000 depending on the facts indicated in (g)(1) and (g)(2) above, a Guaranty of Performance from such other entity (Appendix D, Illustration A), a Corporate Resolution (Appendix D, Illustration B), a Secretary's Certificate (Appendix D, Illustration C), a Consent to Service of process from the guarantor (Appendix A, Illustration D), and an Acknowledgment from the guarantor (Appendix A, Illustrations E or F);
- h) \$100.00 registration fee.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

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Section 200.APPENDIX A Franchise Registration Forms

Section 200.ILLUSTRATION A Uniform Franchise Registration Application Page

File No. _____

(Insert file number of previous filings of Applicant, if any)

FEE: _____
(To be enclosed by Applicant at time application is initially filed)

Date of Application: _____

Application For (Check only one):

____ Registration of an offer or sale of franchises
____ Annual Report

Amendment-number-----to-application
Filed-under-Section-----
Dated:-----

1. Name of Franchisor

Name under which the Franchisor is doing or intends to do business.

2. Franchisor's principal business address.

Name and address of Franchisor's agent in the State of Illinois authorized to receive process.

Illinois Attorney General, 500 South Second Street, Springfield, Illinois 62706

3. Name, address and telephone number of subfranchisors, if any, for this state.

4. Name, address and telephone number of person to whom communications regarding this application should be directed.

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(Source: Amended at 19 Ill. Reg. _____, effective _____)

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Section 200. ILLUSTRATION B Supplemental Information

1. List the following:

- A. The states in which this proposed registration is effective.
- B. The states in which this proposed registration is or will be shortly on file.
- C. The states, if any, which have refused, by order or otherwise, to register this franchise ~~these-franchises~~.
- D. The states, if any, which have revoked or suspended the right to offer this franchise ~~these-franchises~~.
- E. The states, if any, in which the proposed registration of this franchise ~~these-franchises~~ has been withdrawn.

2. With respect to all franchises sought to be registered set forth, in budget form, the total projected financing required by the franchisor to fulfill the franchisor's obligations to provide real estate, improvements, equipment, inventory, training and all other items included in the offering. Show separately the sources of all of the required funds including any proposed loans or contributions to capital.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

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Section 200. ILLUSTRATION C Salesman Disclosure

1. List the persons who will offer or sell franchises in this State. For each person state: ~~As required by this State's statute, list the persons who will engage in the offer or sale of franchises in this State and for each person list the following information:~~

- A. Name;
- B. Business address and telephone number;
- C. Home address and telephone number;
- D. Present employer;
- E. Present title;
- F. Social security number;
- G. Birthdate; and

H. Employment ~~or occupation~~ during the past 5 years. For each such employment state the name of the employer, position held and beginning and ending dates ~~date for each such employment~~.

2. State whether any person identified in 1. above:

A. Has any administrative, civil or criminal action pending ~~against him~~ alleging a violation of any franchise or securities law, fraud, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices, misappropriation of property or any comparable allegations?

YES _____ NO _____

B. Has during the 10 year period immediately before the Offering Circular date ~~preceding the date of the offering circular~~:

(1) been convicted of a felony or pleaded nolo contendere to a felony charge or been held liable in a civil action by final judgment if the ~~such~~ felony or civil action involved a violation of any franchise or securities law, fraud, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices, misappropriation of property or any comparable violation of law?

YES _____ NO _____

(2) entered into or been named in any consent judgment, decree, order or assurance under any federal or state franchise, securities antitrust, monopoly, trade practice, or trade regulation law?

YES _____ NO _____

(3) been subject to any order of any national securities association or national securities exchange (as defined in the Securities and Exchange Act of 1934, 15 U.S.C. 78a) suspending or expelling the such person from membership in the such association or exchange.

YES _____ NO _____

C. With respect to each question above answered "YES" state:

- (1) the name of each person or entity involved;
- (2) the court, agency, association or exchange involved;
- (3) a summary of the allegations;
- (4) if applicable, the date of the conviction, judgment, decree, order or assurance; and
- (5) the penalty imposed, damages assessed and nature thereof, terms and conditions of the judgment, decree, order or assurance.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

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Section 200. ILLUSTRATION D Uniform Consent to Service of Process

KNOW-ALL-MEN-BY-THESB-PRESENTS:
that the undersigned, _____ (a corporation organized under the laws of the State of _____) (a partnership) (an individual) _____
for the purpose of complying with the laws of the State of _____
relating to the registration of sale of franchises
hereby _____, irrevocably appoints the _____ (regulatory authority) _____ Attorney General and the successors in such office, its attorney in the State of _____ for service of notice upon _____ whom may be served any notice, process or pleading in any action or proceeding against it arising out of or in connection with the sale of franchises, or a out of violation of the franchise aforesaid laws of _____ said State; and consents the undersigned does hereby consent that an any such action or proceeding against it may be commenced in any court of competent jurisdiction and proper venue within _____ said State by service of process upon this said officer with the same effect as if the undersigned was organized or created under the laws of _____ said State and had lawfully been served with process in _____ said State.
It is requested that a copy of any notice, process or pleading served this consent be hereunder by mailed to:

(name and address)

Dated: _____, 19 _____

By: _____

Title _____

(SEAL)

By: _____

Title _____

Notary Public

My Commission Expires: _____

(Notarial Seal)

(Source: Amended at 19 Ill. Reg. _____, effective _____)

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Section 200. ILLUSTRATION G Certification Page

I certify under penalty of law that I have read this application and the exhibits attached hereto and incorporated herein by reference, and known the contents thereof and that the statements therein are true and correct.

Executed at _____, 19 _____.

(Signature(s) of Franchisor, and/or Subfranchisor or Broker)

(SEAL)

By _____

Title _____

STATE OF _____)
COUNTY OF _____)

Personally appeared before me this _____ day of _____, 19 _____ the above-named _____ (and) _____ to me known to be the person(s) who executed the foregoing application (as above-named applicant) and (each) being first duly sworn, stated upon oath that said application, and all exhibit submitted herewith, are true and correct.

(Notarial Seal)

Notary

(Source: Amended at 19 Ill. Reg. _____, effective _____)

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Section 200. ILLUSTRATION K Acknowledgment of Receipt (Suggested Format)
(Repealed)

~~The undersigned, personally and/or as an officer or partner of the proposed franchisee, does hereby acknowledge receipt of the franchise disclosure document including all Exhibits attached thereto to wit: the Statement of Actual Sales by Franchisees (Exhibit A); the names, addresses and telephone numbers of the franchisees (Exhibit B); the names of the franchisees (Exhibit C); the Audited Financial Statements for the years 19__-19__ and 19__-19__ (Exhibit D); the name of the franchisor; the Franchise Agreement (Exhibit E); and the name of the lessor; Equipment Lease Agreement (Exhibit F); etc.~~

~~Bated: _____~~
~~_____~~
~~individually and as an officer or partner of _____~~
~~_____~~
~~a (_____ corporation)~~
~~(_____ partnership)~~

(Source: Repealed at 19 __, Reg. __, effective __)

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Section 200. ILLUSTRATION L Requirements for Preparation of a Uniform Franchise Offering Circular

COVER PAGE: The State cover page of the offering circular must state:

1. The title in boldface type: **FRANCHISE OFFERING CIRCULAR**
2. The franchisor's name, type of business organization, principal business address and telephone number.
3. A sample of the primary business trademark, logotype, trade name, or commercial label or symbol under which the franchisee will conduct its business. (Place in upper left-hand corner of the cover page.)
4. A brief description of the franchised business.
5. The total amounts in Items 5 and 7 of the offering circular: Franchisee's Initial Franchise Fee or Other Payment and Franchisee's Initial Investment.
6. The following statements:
Information comparing franchisors is available. Call the State administrators listed in Exhibit __ or your public library for sources of information.
Registration of this franchise by a state does not mean that the state recommends it or has verified the information in this offering circular. If you learn that anything in the offering is untrue, contact the Federal Trade Commission and (State or Provincial authority).

7. Effective Date: (Leave blank until notified of effectiveness by State regulatory authority.)

Cover Page Instructions:

- i. Present information in the required order. Except for risk factors or when instructed otherwise, do not include any other information.
- ii. The estimated 19__-19__ sales of the franchisor, net of discounts and other deductions, shall be \$_____. This total shall exclude the sales of the following: _____, minus only exclusions allowed of item 7. Do not state what the sales includes.
- iii. Limit the cover page disclosure to one page unless risk factors require additional space. Disclosure on the cover page should be brief. Limit the description of the business to the product or

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service offered by the franchisor. Unless required by a State regulator, do not disclose financing arrangements or the franchisee's right to use the trademark. Exclude non-required information unless necessary as a risk factor or required by a State regulator.

iv. If applicable, disclose the following risk factors using the following language on the cover:

1. THE FRANCHISE AGREEMENT PERMITS THE FRANCHISEE (TO SUE) (TO ARBITRATE WITH) ONLY IN OUT OF STATE (ARBITRATION) (LITIGATION) MAY FORCE YOU TO ACCEPT A LESS FAVORABLE SETTLEMENT FOR DISPUTES. IT MAY ALSO COST MORE (TO SUE) (TO ARBITRATE) WITH IN THAN IN YOUR HOME STATE.

2. THE FRANCHISE AGREEMENT STATES THAT LAW GOVERNS THE AGREEMENT, AND THIS LAW MAY NOT PROVIDE THE SAME PROTECTIONS AND BENEFITS AS LOCAL LAW. YOU MAY WANT TO COMPARE THESE LAWS.

3. THERE MAY BE OTHER RISKS CONCERNING THIS FRANCHISE.

v. In addition to the above language, disclose other risk factors required by a State regulator.

vi. Use capital letters for risk factor disclosure.

vii. In multistate offerings in which the franchisor uses a single offering circular, refer to an exhibit to the offering circular for a list of State or Provincial authority.

TABLE OF CONTENTS: INCLUDE A TABLE OF CONTENTS BASED ON THE REQUIREMENTS OF THIS OFFERING CIRCULAR.

TABLE OF CONTENTS INSTRUCTION:

i. Refer to UFOC Items and state the page where each UFOC Item disclosure begins. List exhibits by letter. Use the following format:

SAMPLE TABLE OF CONTENTS:

ITEM	TABLE OF CONTENTS	PAGE
1	The Franchisor, its Predecessors and Affiliates	
2	Business Experience	
3	Litigation	
4	Bankruptcy	
5	Initial Franchise Fee	

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- 6 Other Fees
- 7 Initial Investment
- 8 Restrictions on Sources of Products and Services
- 9 Franchisee's Obligations
- 10 Financing
- 11 Franchisor's Obligations
- 12 Territory
- 13 Trademarks
- 14 Patents, Copyrights and Proprietary Information
- 15 Obligation to Participate in the Actual Operation of the Franchise Business
- 16 Restrictions on What the Franchise May Sell
- 17 Renewal, Termination, Transfer and Dispute Resolution
- 18 Public Figures
- 19 Earnings Claims
- 20 List of Outlets
- 21 Financial Statements
- 22 Contracts
- 23 Receipt

Exhibits

- A. Franchise Agreement
- B. Equipment Lease
- C. Lease for Premises
- D. Loan Agreement

Item 1

THE FRANCHISOR, ITS PREDECESSORS AND AFFILIATES

Item 1 Instructions:

i. Use the word "we," initials or one or two words to refer to the franchisor. Use different initials or a different one or two words to refer to other persons contracting with the franchisee under the franchise agreement. Except in the 23 Item titles, use these initials or the word(s) to describe these persons or entities throughout the offering circular.

ii. Define the franchisee as "you" and use this description throughout the offering circular. If the franchisee could be a corporation, partnership or other entity, disclose whether "you" includes the franchisee's owners.

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iii. "Predecessor" in Item 1 means a person from whom the franchisor acquired directly or indirectly the major portion of the franchisor's assets.

iv. The disclosure regarding predecessors need only cover the 10 year period immediately before the close of the franchisor's most recent fiscal year.

v. Affiliate in Item 1 means a person (other than a natural person) controlled by, controlling or under common control with the franchisor, which is offering franchises in any line of business or is providing products or services to the franchisees of the franchisor.

DISCLOSE IN SUMMARY FORM:

A. THE NAME OF THE FRANCHISOR, ITS PREDECESSORS AND AFFILIATES.

B. THE NAME UNDER WHICH THE FRANCHISOR DOES OR INTENDS TO DO BUSINESS.

Item 1B Instruction:

If the franchisor does business under a name different from the name disclosed in Item 1A, state that other name. If not, state that the franchisor does not do business under another name.

C. THE PRINCIPAL BUSINESS ADDRESS OF THE FRANCHISOR, ITS PREDECESSORS AND AFFILIATES, AND THE FRANCHISOR'S AGENT FOR SERVICE OF PROCESS.

Item 1C Instructions:

i. Principal business address means "home office" in the United States, not in the state for which the offering circular was prepared. If appropriate, also disclose the location of an international "home office." The business address cannot be a post office box.

ii. In a multi-state offering in which the agent for service of process is required, the franchisor may use an exhibit or the acknowledgement of receipt to disclose this agent.

D. THE BUSINESS FORM OF THE FRANCHISOR

Item 1D Instruction:

Disclose the state of incorporation or business organization and the type of business organization.

E. THE FRANCHISOR'S BUSINESS AND THE FRANCHISES TO BE OFFERED IN THIS STATE.

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Item 1B Instructions:

Disclose the following:

i. That the franchisor sells or grants franchises;

ii. Whether the franchisor operates businesses of the type being franchised;

iii. The franchisor's other business activities;

iv. The business to be conducted by the franchisees;

v. The general market for the product or service to be offered by the franchisee. (For example, is the market developed or developing? Will the goods be sold primarily to a certain group? Are sales seasonal?);

vi. In general terms any regulations specific to the industry in which the franchise business operates. It is not necessary to include laws or regulations that apply to businesses generally;

vii. A general description of the competition.

F. THE PRIOR BUSINESS EXPERIENCE OF THE FRANCHISOR, ITS PREDECESSORS AND AFFILIATES INCLUDE:

(1) THE LENGTH OF TIME THE FRANCHISOR HAS CONDUCTED A BUSINESS OF THE TYPE TO BE OPERATED BY THE FRANCHISEE.

(2) THE LENGTH OF TIME EACH PREDECESSOR AND AFFILIATE HAS CONDUCTED A BUSINESS OF THE TYPE TO BE OPERATED BY THE FRANCHISEE.

(3) THE LENGTH OF TIME THE FRANCHISOR HAS OFFERED FRANCHISES FOR THE SAME TYPE OF BUSINESS AS THAT TO BE OPERATED BY THE FRANCHISEE.

(4) THE LENGTH OF TIME EACH PREDECESSOR AND AFFILIATE OFFERED FRANCHISES FOR THE SAME TYPE OF BUSINESS AS THAT TO BE OPERATED BY THE FRANCHISEE.

(5) WHETHER THE FRANCHISOR HAS OFFERED FRANCHISES IN OTHER LINES OF BUSINESS, INCLUDING:

(A) A DESCRIPTION OF EACH OTHER LINE OF BUSINESS;

(B) THE NUMBER OF FRANCHISES SOLD IN EACH OTHER LINE OF BUSINESS; AND

(C) THE LENGTH OF TIME THE FRANCHISOR HAS OFFERED EACH OTHER

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FRANCHISE.

(6) WHETHER EACH PREDECESSOR AND AFFILIATE OFFERED FRANCHISES IN OTHER LINES OF BUSINESS, INCLUDING:

- (A) A DESCRIPTION OF EACH OTHER LINE OF BUSINESS;
- (B) THE NUMBER OF FRANCHISES SOLD IN EACH OTHER LINE OF BUSINESS; AND
- (C) THE LENGTH OF TIME EACH PREDECESSOR AND AFFILIATE OFFERED EACH OTHER FRANCHISE.

Item 1F Instruction:

Limit disclosure about predecessors to the time before the franchisor acquired the predecessor's assets. Thus, under the 10 year limitation, if a franchisor acquired the assets of a predecessor 8 years ago, the disclosure about the predecessor should cover only the 2 year period before the acquisition.

Sample Answer:

To simplify the language in this offering circular "Belmont" means Belmont Mufflers Inc., the franchisor. "You" means the person who buys the franchise. Belmont is a Minnesota corporation that was incorporated on September 3, 1963. Belmont does business as Belmont Muffler Shops. Our principal business address is 111 First Street, Jackson, Minnesota 55555.

Belmont's agent for service of process is disclosed in Exhibit .

Belmont currently operates 12 Belmont Muffler Shops and sells pipe bending machines and mufflers to various muffler shops.

Belmont franchises the right to sell and install mufflers for the public. You must honor our guarantee to replace mufflers or exhaust pipes that wear out if the vehicle ownership has not changed. Belmont's franchisees often operate their muffler shop franchise with their service stations or tire center. Your competitors include department store service departments, service stations and other national chains of muffler shops. Exhibit is attached to this offering circular and contains a summary of the special regulations for muffler installation in your state.

During the past 5 years Belmont has operated 7 muffler shops that are similar to the franchised shops being offered. All these shops are located in urban areas, have approximately xxxxx square feet of floor space and are located on busy streets. An additional 3 muffler shops were opened in 1990. From 1968 to 1973, Belmont offered franchises for "Repair-All Transmission Shops." "Repair-All" franchises repaired and replaced motor vehicle transmissions under

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a marketing plan similar to the franchise in this offering circular. Belmont sold 40 of these franchises primarily in the states of Minnesota, Michigan, Wisconsin and Illinois. In 1973, Belmont sold this transmission repair company to CTF Inc.

Item 2BUSINESS EXPERIENCE

LIST BY NAME AND POSITION THE DIRECTORS, TRUSTEES AND/OR GENERAL PARTNERS, THE PRINCIPAL OFFICERS AND OTHER EXECUTIVES OR SUBFRANCHISORS WHO WILL HAVE MANAGEMENT RESPONSIBILITY RELATING TO THE FRANCHISES OFFERED BY THIS OFFERING CIRCULAR. LIST ALL FRANCHISE BROKERS. STATE EACH PERSON'S PRINCIPAL OCCUPATIONS AND EMPLOYERS DURING THE PAST FIVE YEARS.

Item 2 Instructions:

i. Principal officers include the chief executive and chief operating officer, the president, financial, franchise marketing, training and franchise operations officers.

ii. First disclose the position and the name of the person holding it. Underline this information; then skip one line.

iii. Disclose the beginning date and departure date for each job held in the five year period whether or not this date is within the past five years. Disclose the location of the job.

iv. Do not disclose home addresses, home telephones, social security numbers or birth dates in this item.

v. Disclose the required information concerning the franchise broker's directors, principal officers and executives with management responsibility to market or service the franchisees.

vi. In a multi-state offering in which the franchisor uses a single offering circular and franchise brokers and executives with direct management responsibility to the franchisees differs from state to state, use an exhibit to refer to these personnel.

Sample Answer

President: Jane J. Doe
From June 1978, until April, 1986, Ms. Doe was Vice President of Atlas Inc., a Houston, Texas based manufacturer of automobile wheels. In April 1986, she joined Belmont as a Director and Vice President. She was promoted to President in June 1987.

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Item 3

LITIGATION

DISCLOSE WHETHER THE FRANCHISOR, ITS PREDECESSOR, A PERSON IDENTIFIED IN ITEM 2 OR AN AFFILIATE OFFERING FRANCHISES UNDER THE FRANCHISOR'S PRINCIPAL TRADEMARK:

- A. HAS AN ADMINISTRATIVE, CRIMINAL OR MATERIAL CIVIL ACTION PENDING AGAINST THAT PERSON ALLEGING A VIOLATION OF A FRANCHISE, ANTITRUST OR SECURITIES LAW, FRAUD, UNFAIR OR DECEPTIVE PRACTICES, OR COMPARABLE ALLEGATIONS. IN ADDITION, INCLUDE ACTIONS OTHER THAN ORDINARY ROUTINE LITIGATION INCIDENTAL TO THE BUSINESS WHICH ARE SIGNIFICANT IN THE CONTEXT OF THE NUMBER OF FRANCHISEES AND THE SIZE, NATURE OR FINANCIAL CONDITION OF THE FRANCHISE SYSTEM OR ITS BUSINESS OPERATIONS. IF SO, DISCLOSE THE NAMES OF THE PARTIES, THE FORUM, NATURE, AND CURRENT STATUS OF THE PENDING ACTION. FRANCHISOR MAY INCLUDE A SUMMARY OPINION OF COUNSEL CONCERNING THE ACTION IF A CONSENT TO USE OF THE SUMMARY OPINION IS INCLUDED AS PART OF THIS OFFERING CIRCULAR.
- B. HAS DURING THE 10 YEAR PERIOD IMMEDIATELY BEFORE THE DATE OF THE OFFERING CIRCULAR BEEN CONVICTED OF A FELONY OR PLEADED NOLO CONTENDERE TO A FELONY CHARGE; OR BEEN HELD LIABLE IN A CIVIL ACTION BY FINAL JUDGMENT OR BEEN THE SUBJECT OF A MATERIAL ACTION INVOLVING VIOLATION OF A FRANCHISE, ANTITRUST OR SECURITIES LAW, FRAUD, UNFAIR OR DECEPTIVE PRACTICES, OR COMPARABLE ALLEGATIONS. IF SO, DISCLOSE THE NAMES OF THE PARTIES, THE FORUM AND DATE OF CONVICTION OR DATE JUDGMENT WAS ENTERED, PENALTY OR DAMAGES ASSESSED AND/OR TERMS OF SETTLEMENTS.
- C. IS SUBJECT TO A CURRENTLY EFFECTIVE INJUNCTIVE OR RESTRICTIVE ORDER OR DECREE RELATING TO THE FRANCHISE OR UNDER A FEDERAL, STATE OR CANADIAN FRANCHISE, SECURITIES, ANTITRUST, TRADE REGULATION OR TRADE PRACTICE LAW RESULTING FROM A CONCLUDED OR PENDING ACTION OR PROCEEDING BROUGHT BY A PUBLIC AGENCY. IF SO, DISCLOSE THE NAME OF THE PERSON, THE PUBLIC AGENCY AND COURT, A SUMMARY OF THE ALLEGATIONS OR FACTS FOUND BY THE AGENCY OR COURT AND THE DATE, NATURE, TERMS AND CONDITIONS OF THE ORDER OR DECREE.

Item 3 Definitions:

- i. For purposes of these instructions to Item 3, "franchisor" includes the franchisor, its predecessors, persons identified in Item 2 and affiliates offering franchises under the franchisor's principal trademarks.
- ii. Action: Action includes complaints, cross claims, counterclaims, and third party complaints in a judicial proceeding, and their equivalents in an administrative action or arbitration proceeding. The franchisor

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may disclose its counterclaims. Omit actions that were dismissed by final judgment without liability of or entry of an adverse order against the franchisor.

iii. Included in the definition of material is an action or an aggregate of actions if a reasonable prospective franchisee would consider it important in making a decision about the franchised business.

iv. In this Item, settlement of an action does not diminish its materiality if the franchisor agrees to pay material consideration or agrees to be bound by obligations which are materially adverse to its interests.

v. "Ordinary routine litigation" means actions which ordinarily result from the business and which do not depart from the normal kinds of actions in the business.

vi. "Held liable" includes a finding by final judgment in a judicial, binding arbitration or administrative proceeding that the franchisor, as a result of claims or counterclaims, must pay money or other consideration, must reduce an indebtedness by the amount of an award, cannot enforce its rights, or must take action adverse to its interests.

vii. "Currently Effective": An injunctive or restrictive order or decree is "currently effective" unless it has been vacated or rescinded by a court or by the issuing public agency. An order that has expired by its own terms is not "currently effective." If the named party(s) have fully complied with an order (for example, through registration of its franchise offer), the order is not "currently effective." A party has not fully complied with an order to act or to refrain from an act (for example, to comply with the franchise law or to refrain from violating the franchise law) until the order expires by its own terms.

Item 3 Instructions:Civil litigation or Injunctive or Restrictive Order:

- viii. Use sample answer 3-1 for a negative response to Item 3 if the franchisor has never been named in litigation or if the only litigation naming the franchisor is outside the scope of Item 3.
- ix. Disclose in the same order as the instructions below appear.
- x. Title each action and state its case number or citation in parentheses. Underline the title of the action.

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xi. For each action state the action's initial filing date and the opposing party's name and relationship with the franchisor. Relationships include competitor, supplier, lessor, franchisee, former franchisee, or class of franchisees.

xii. Summarize the legal and factual nature of each claim in the action.

xiii. Summarize the relief sought or obtained. Summarize conclusions of law or fact.

xiv. State that other than these (list number of actions) no litigation is required to be disclosed in this offering circular.

Criminal convictions or Pleas:

xv. Disclose in the same order as the following instructions appear.

xvi. Title each action and state its citation in parentheses. Underline the title of the action.

xvii. Name the person convicted or who pleaded.

xviii. Next, state the crime or violation and the date of conviction.

xix. Next, disclose the sentence or penalty imposed.

xx. Lastly, state that other than these (list the number of actions) actions, no litigation is required to be disclosed in this offering circular.

Sample Answer 3-1

No litigation is required to be disclosed in this offering circular.

Sample Answer 3-2

Doe v. Belmont Muffler Service, Inc. (cite) On March 1, 1985, our franchisee, Donald Doe, sought to enjoin us from terminating him for nonpayment of royalty fees. Doe alleged On April 3, 1986, Doe withdrew the case when we repurchased his franchise for \$90,000 and agreed not to enforce non-compete clauses against him.

Indiana v. Belmont Muffler Service, Inc. (cite) On April 1, 1985, the Attorney General of Indiana sought to enjoin us from offering unregistered franchises and from using false income representations. The Attorney General alleged that the earnings claims were false because The court found that we had

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offered franchises, that the offers were not registered and that we had made the alleged false representations in our earnings claims. The court enjoined us from repeating those acts.

Other than these 2 actions, no litigation is required to be disclosed in this offering circular.

Item 4

BANKRUPTCY

STATE WHETHER THE FRANCHISOR, ITS AFFILIATE, ITS PREDECESSOR, OFFICERS OR GENERAL PARTNER DURING THE 10 YEAR PERIOD IMMEDIATELY BEFORE THE DATE OF THE OFFERING CIRCULAR (A) FILED AS DEBTOR (OR HAD FILED AGAINST IT) A PETITION TO START AN ACTION UNDER THE U.S. BANKRUPTCY CODE; (B) OBTAINED A DISCHARGE OF ITS DEBTS UNDER THE BANKRUPTCY CODE; OR (C) WAS A PRINCIPAL OFFICER OF A COMPANY OR A GENERAL PARTNER IN A PARTNERSHIP THAT EITHER FILED AS A DEBTOR (OR HAD FILED AGAINST IT) A PETITION TO START AN ACTION UNDER THE U.S. BANKRUPTCY CODE OR THAT OBTAINED A DISCHARGE OF ITS DEBTS UNDER THE BANKRUPTCY CODE DURING OR WITHIN 1 YEAR AFTER THE OFFICER OR GENERAL PARTNER OF THE FRANCHISOR HELD THIS POSITION IN THE COMPANY OR PARTNERSHIP. IF SO, DISCLOSE THE NAME OF THE PERSON OR COMPANY THAT WAS THE DEBTOR UNDER THE BANKRUPTCY CODE, THE DATE OF THE ACTION AND THE MATERIAL FACTS.

Item 4 Instructions:

i. First, name the party that filed (or had filed against it) the petition in bankruptcy and the party's relationship to the franchisor. If the debtor in a bankruptcy proceeding was or is affiliated with the franchisor, state the relationship. If the debtor in a bankruptcy proceeding is unaffiliated with the franchisor, state the name, address and principal business of the bankrupt company.

ii. Disclose that the entity filed bankruptcy or reorganization under the bankruptcy law and the date of the original filing.

iii. Identify the bankruptcy court, and the case name and number. Put this information in parentheses.

iv. State the date on which the debtor obtained a discharge in bankruptcy (including discharges under Chapter 7 and confirmation of any plans of reorganization under Chapters 11 and 13 of the U.S. Bankruptcy Code).

v. Disclose other material facts.

vi. Cases, actions and other proceedings under the laws of foreign nations relating to bankruptcy proceedings should be included in answers, where responses are required, as if those cases, actions and

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proceedings took place under the U.S. Bankruptcy Code.

vii. If information is disclosed in this Item, at the end of the disclosure add sample answer 4-1 with the qualification "other than these actions."

viii. Use sample answer 4-1 if no person listed in Items 1 or 2 has been involved as a debtor in bankruptcy proceedings or any person listed in Items 1 or 2 has been involved as debtor in bankruptcy proceedings but the bankruptcy proceedings (under the U.S. Bankruptcy Code or its predecessor, the National Bankruptcy Act of 1898) were discharged more than 10 years ago. "Person" includes natural persons and legal entities listed in Items 1 and 2. Person does not include anyone acting solely as the franchisor's agent for service of process.

Sample Answer 4-1

No person previously identified in Items 1 or 2 of this offering circular has been involved as a debtor in proceedings under the U.S. Bankruptcy Code required to be disclosed in this Item.

Sample Answer 4-2

On March 2, 1984, Belmont filed a petition to reorganize under Chapter 11 of the U.S. Bankruptcy Code. We were allowed to continue to operate under bankruptcy court supervision. On October 2, 1985, the bankruptcy court approved our plan of reorganization and discharged the proceedings. (US Bankruptcy Court for the District of Case B 84-301.)

Belmont's present president, Roger Rowe, was president of Acme Muffler Service, Inc., a Houston, Texas based manufacturer of exhaust systems, from July 1, 1978, through June 14, 1983. On June 6, 1983, an involuntary petition under the U.S. Bankruptcy Code was filed against Acme by its creditors. On July 14, 1983, the court entered an order of relief. Acme sold its assets and was dissolved.

Other than these 2 actions, no person previously identified in Items 1 or 2 of this offering circular has been involved as a debtor in proceedings under the U.S. Bankruptcy Code required to be disclosed in this Item.

Item 5

INITIAL FRANCHISE FEE

DISCLOSE THE INITIAL FRANCHISE FEE AND STATE THE CONDITIONS WHEN THIS FEE IS REFUNDABLE.

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Item 5 Instructions:

- i. "Initial fee" includes all fees and payments for services or goods received from the franchisor before the franchisee's business opens. "Initial fee" includes all fees and payments whether payable in lump sum or installments.
- ii. If the initial fee is not uniform, disclose the formula or the range of initial fees paid in the fiscal year before the application date and the factors that determined the amount.
- iii. Disclose installment payment terms in this Item or in Item 10.

Sample Answer 5-1

All franchisees pay a \$10,000 lump sum franchise fee when they sign the franchise agreement. Belmont will refund the entire amount if we do not approve your application within 45 days. Belmont will refund \$9,000 of this fee if you do not satisfactorily complete your 2-week training. There are no refunds under other circumstances.

Sample Answer 5-2

You must pay a franchise license fee of \$_____ per thousand licensed drivers who reside within your exclusive area when the franchise agreement is signed. The number of licensed drivers is determined by the latest abstract of the state agency which issues driver's licenses. The minimum fee is \$20,000. When you send your application, you must pay a non-refundable \$500 application fee. You must pay an additional \$10,000 when you receive your equipment. The balance of your fee is payable in 12 equal monthly installments of \$_____. The first installment payment is due 1 year after your shop opens. Belmont charges 10% annual interest on the unpaid balance. Interest compounds daily and accrues from the date that you receive your equipment. All buyers pay this uniform fee and receive the same financing terms on the fee. If your application is not accepted, Belmont retains the \$500 for investigative costs, but you are not liable for the \$19,500 remainder. Belmont does not give refunds under other circumstances.

Item 6

OTHER FEES

DISCLOSE OTHER RECURRING OR ISOLATED FEES OR PAYMENTS THAT THE FRANCHISEE MUST PAY TO THE FRANCHISOR OR ITS AFFILIATES OR THAT THE FRANCHISOR OR ITS AFFILIATES IMPOSE OR COLLECT IN WHOLE OR IN PART ON BEHALF OF A THIRD PARTY. INCLUDE THE FORMULA USED TO COMPUTE THESE OTHER FEES AND PAYMENTS. IF ANY FEE

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IS REFUNDABLE, STATE THE CONDITIONS WHEN EACH FEE OR PAYMENT IS REFUNDABLE.

Item 6 Instructions:

- i. First disclose fees in tabular form. Use footnotes or a "remarks" column to elaborate on the information in the table or to disclose caveats. If elaborations are lengthy, use footnotes instead of a remarks column.
- ii. Disclose the amount of each fee. A dollar amount or a percentage of gross sales is acceptable if the term gross sales is defined. If dollar amounts may increase, disclose the formula which determines the increase or the maximum amount of the increase.
- iii. Disclose the due date for recurring payments.
- iv. If all fees are payable to only one franchisor, disclose this in a footnote.
- v. If all fees are imposed and collected by the franchisor, disclose this in a footnote.
- vi. If all fees are non-refundable, state this in a footnote.
- vii. Disclose the voting power of franchisor owned outlets on any fees imposed by cooperatives. If franchisor outlets have controlling voting power, disclose a range for the fee. Disclose this information in a footnote or a "remarks" column.
- viii. The franchisor need not repeat information contained in Items 8 & 9, but the table should direct the franchisees to those items.
- ix. Examples of fees are royalty, base negotiated, introductory, remodeling, additional training, advertising, jump advertising, additional assistance, audit, accounting, inventory, and transfer and renewal fee.

Sample Answer 6-1

Name of Fee	Amount	Due Date	Remarks
Royalty(1)	4% of total gross sales	Payable monthly on the 10th day of the next month	Gross sales includes all revenue from the franchise operation. Gross sales does not include sales tax or

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use tax.

Advertising(1)	2% of total gross sales	Same as Royalty fee	Franchisees may form cooperative and establish local advertising fees. Company owned stores have no vote in these cooperatives.
Cooperative Advertising(1)	Maximum - 2% of total gross sales	Established by franchisees	
Additional Training(1)	\$1,000 per person	2 weeks prior to beginning of training	Belmont trains 2 persons free - See Item 11
Additional Assistance(1)	\$500 per day	30 days after opening	Belmont provides opening assistance free - See Item 11
Transfer(1)	\$1,000		Payable when you sell your franchise. No charge if franchise transferred to a corporation which you control.
Audit(1)	Cost of audit plus 10% interest on underpayment(2)	30 days after billing	payable only if audit shows understatement of at least 2% of gross sales for any month
Renewal Fee(1)	\$1,000	30 days before renewal	

(1) All fees are imposed by and are payable to Belmont. All fees are non-refundable.

(2) Interest begins from the date of the underpayment.

INITIAL INVESTMENT

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DISCLOSE THE FOLLOWING EXPENDITURES STATING TO WHOM THE PAYMENTS ARE MADE, WHEN PAYMENTS ARE DUE, WHETHER EACH PAYMENT IS REFUNDABLE, THE CONDITIONS WHEN EACH PAYMENT IS REFUNDABLE, AND, IF PART OF THE FRANCHISE'S INITIAL INVESTMENT IN THE FRANCHISE MAY BE FINANCED, AN ESTIMATE OF THE LOAN REPAYMENTS, INCLUDING INTEREST:

- A. REAL PROPERTY, WHETHER PURCHASED OR LEASED. IF NEITHER ESTIMABLE NOR DESCRIBABLE BY A LOW-HIGH RANGE, DESCRIBE REQUIREMENTS, SUCH AS PROPERTY TYPE, LOCATION AND BUILDING SIZE.
- B. EQUIPMENT, FIXTURES, OTHER FIXED ASSETS, CONSTRUCTION, REMODELING, LEASEHOLD IMPROVEMENTS AND DECORATING COSTS, WHETHER PURCHASED OR LEASED.
- C. INVENTORY REQUIRED TO BEGIN OPERATION.
- D. SECURITY DEPOSITS, UTILITY DEPOSITS, BUSINESS LICENSES, OTHER PREPAID EXPENSES.
- E. ADDITIONAL FUNDS REQUIRED BY THE FRANCHISEE BEFORE OPERATIONS BEGIN AND DURING THE INITIAL PHASE OF THE FRANCHISE.
- F. OTHER PAYMENTS THAT THE FRANCHISEE MUST MAKE TO BEGIN OPERATIONS.

Item 7 Instructions:

- i. Begin disclosure by listing expenditures in tabular form. List preopening expenses first. Use footnotes to comment on expected expenditures.
- ii. Disclose payments required by the franchise agreement and all costs necessary to begin operation of the franchise and operate the franchise during the initial phase of the business. A reasonable time for the initial phase of the business is at least 3 months or a reasonable period for the industry. Include an entry titled "additional funds" and disclose the length of the initial phase in the entry.
- iii. If a specific expenditure amount is not ascertainable, use a low-high range based on the franchisor's current experience. If real property costs cannot be estimated in a low-high range, disclose the approximate size of the property and building involved. Describe the probable location of the building (for example, strip shopping center, mall, downtown, rural or highway).
- iv. The franchisor may include additional expenditure tables to show expenditure variations caused by differences in site location, premise size, etc. Describe in general terms the factors, basis and

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experience that the franchisor considered or relied upon in formulating the amount required for additional funds.

- v. If the franchisor or an affiliate finances part of the initial investment, state the expenditures that it will finance. State the required down payment, annual percentage rate of interest, rate factors, and the estimated loan repayments. Make the discussion brief, and refer to Item 10.
- vi. Total the initial investment. This total should be the same as the total investment on the offering circular cover.

SAMPLE ANSWER 7

YOUR ESTIMATED INITIAL INVESTMENT

	AMOUNT	METHOD OF PAYMENT	WHEN DUE	TO WHOM PAYMENT IS TO BE MADE
INITIAL FRANCHISE FEE	\$20,000 (Note 1)	Lump Sum	At Signing of Franchise Agreement	Belmont, Inc.
TRAVEL AND LIVING EXPENSES WHILE TRAINING	\$2,500 to \$5,000	As Incurred	During Training	Airlines, Hotels & Restaurants
REAL ESTATE AND IMPROVEMENTS	(Note 2)	(Note 2)	(Note 2)	(Note 2)
EQUIPMENT	\$40,000 (Note 3)	Lump Sum	Prior to Opening	Belmont or vendors
SIGNS	\$2,200	Lump Sum	Prior to Opening	Abbey Sign Company
MISCELLANEOUS OPENING COSTS	\$8,000 (Note 4)	As Incurred	As Incurred	Suppliers, Utilities, etc.
OPENING INVENTORY	\$8,000 (Note 5)	Lump Sum	Prior to Opening	Belmont or vendors

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ADVERTISING FEE-3 MONTHS	\$ 500	Monthly	Belmont
<hr/>			
ADDITIONAL FUNDS- 3 MONTHS	\$50,000 to \$75,000 (Note 6)	As Incurred	Employees, Suppliers Utilities
<hr/>			
TOTAL	\$132,700 to \$160,200 (Note 7)	(Does not include real estate costs)	

Notes:

- (1) See Item 5 for the conditions when this fee is partly refundable. Belmont does not finance any fee.
- (2) If you do not own adequate shop space, you must lease the land and building for the Belmont Muffler Shop. Typical locations are light industrial and commercial areas. The typical Belmont Muffler Shop has 5,000 - 8,000 square feet. Former three or four bay gasoline service stations have been converted with relative ease into Belmont Muffler Shops. Rent is estimated to be between \$12,000 - \$20,000 per year depending on factors such as size, condition and location of the leased premises.
- (3) This payment is fully refundable before equipment installation. After installation, Belmont deducts \$3,000 installation costs from your refund.
- (4) Includes security deposits, utility costs, incorporation fee.
- (5) This payment is fully refundable before Belmont delivers your inventory. After delivery, Belmont deducts a 10% restocking fee from your refund.
- (6) This estimates your start up expenses. These expenses include payroll costs. These figures are estimates and Belmont cannot guarantee that you will not have additional expenses starting the business. Your costs will depend on factors such as: how much you follow Belmont's methods and procedures; your management skill, experience and business acumen; local economic conditions; the local market for our product; the prevailing wage rate; competition; and the sales level reached during the initial period.
- (7) Belmont relied on its 30 years of experience in the muffler business to compile these estimates. You should review these figures carefully with a business advisor before making any decision to purchase the franchise.

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(8) Belmont does not offer direct or indirect financing to franchisees for any items.

Item 8
RESTRICTIONS ON SOURCES
OF PRODUCTS AND SERVICES

DISCLOSE FRANCHISEE OBLIGATIONS TO PURCHASE OR LEASE FROM THE FRANCHISOR, ITS DESIGNEE OR FROM SUPPLIERS APPROVED BY THE FRANCHISOR OR UNDER THE FRANCHISOR'S SPECIFICATIONS. FOR EACH OBLIGATION DISCLOSE:

- THE GOODS, SERVICES, SUPPLIES, FIXTURES, EQUIPMENT, INVENTORY, COMPUTER HARDWARE AND SOFTWARE OR REAL ESTATE RELATING TO ESTABLISHING OR OPERATING THE FRANCHISED BUSINESS.
- THE MANNER IN WHICH THE FRANCHISOR ISSUES AND MODIFIES SPECIFICATIONS OR GRANTS AND REVOKES APPROVAL TO SUPPLIERS.
- WHETHER, AND FOR WHAT CATEGORIES OF GOODS AND SERVICES, THE FRANCHISOR OR ITS AFFILIATES ARE APPROVED SUPPLIERS OR THE ONLY APPROVED SUPPLIERS.
- WHETHER, AND IF SO, THE PRECISE BASIS BY WHICH THE FRANCHISOR OR ITS AFFILIATES WILL OR MAY DERIVE REVENUE OR OTHER MATERIAL CONSIDERATION AS A RESULT OF REQUIRED PURCHASES OR LEASES.
- THE ESTIMATED PROPORTION OF THESE REQUIRED PURCHASES AND LEASES TO ALL PURCHASES AND LEASES BY THE FRANCHISEE OF GOODS AND SERVICES IN ESTABLISHING AND OPERATING THE FRANCHISED BUSINESS.
- THE EXISTENCE OF PURCHASING OR DISTRIBUTION COOPERATIVES.

Item 8 Instructions:

- An obligation includes those imposed by written agreement or by the franchisor's practice. The franchisor may include the reason for the requirement.
- Do not include goods or services provided as part of the franchise and without a separate charge (for example, a fee for initial training when the cost is included in the franchise fee). These fees should be described in Item 5. Do not include fees disclosed in response to Item 6.
- For "precise basis," disclose the franchisor's total revenues and the franchisor's revenues from all required purchases and leases of products and services. Also, disclose the percentage of the

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franchisor's total revenues represented by the franchisor's revenues from required purchases or leases. If the franchisor's affiliates also sell or lease products or services to franchisees, disclose affiliate revenues from those sales or leases. These amounts should be taken from the franchisor's statement of operations (or profit and loss statement) from the most recent annual audited financial statement attached to the offering circular. If the franchisor's annual audited financial statement is not required to be attached to the offering circular or if the franchisor's affiliate sells or leases required products or services to franchisees, disclose the sources of information used in computing revenues.

iv. State how the franchisor formulates and modifies specifications and standards imposed on franchisees.

v. Disclose whether specifications and standards are issued to franchisees, subfranchisors, or approved suppliers.

vi. Describe how suppliers are evaluated, approved or disapproved. Disclose whether the franchisor's criteria for supplier approval are available to franchisees. State the fees and procedure to secure approval and how approvals are revoked. State the time period when the franchisee will receive notification of approval or disapproval.

vii. If the designated supplier will make payments to the franchisor because of transactions with franchisees, disclose the basis for the payment. Specify a percentage or a flat amount. Purchases of similar goods or services by the franchisor at a lower price than that available to franchisees is a payment.

viii. Disclose whether the franchisor negotiates purchase arrangements with suppliers (including price terms) for the benefit of franchisees.

ix. Disclose whether the franchisor provides material benefits (for example, renewal or granting additional franchises) to a franchisee based on a franchisee's use of designated or approved sources.

x. Use sample answer 8-1 if the response to Item 8 is negative.

Sample Answer 8-1

Belmont has no required specifications, designated suppliers, or approved suppliers for goods, services or real estate relating to your franchise business. Belmont will not derive revenue from your purchases or leases.

Sample Answer 8-2

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You must purchase your pipe bending machine, hoist, cutting torch and suppliers under specifications in the operations manual. These specifications include standards for delivery, performance, design and appearance. You may purchase this equipment from Belmont. In the year ending December 31, 1992, Belmont's revenues from the sale of this equipment to franchisees was \$500,000, or 5% of Belmont's total revenues of \$10,000,000. The cost of equipment purchased in accordance with specifications represents 10% of your total purchases in connection with establishment of your store.

Belmont's affiliate, Muffler Supply Co., is an approved supplier of mufflers to franchisees. In the year ending December 31, 1992, the affiliate's revenues from the sale of mufflers to franchisees was \$2,000,000. The purchase of mufflers from approved sources will represent 15 to 20% of your overall purchases in operating the store. Belmont has approved other suppliers of mufflers and exhaust pipe. If you would like to purchase these items from another supplier, you may request our "Supplier Approval Criteria and Request Form." Based on the information and samples you supply to us and your payment of a \$500 fee, we will test the items supplied and review the proposed supplier's financial records, business reputation, delivery performance, credit rating and other information. Our review typically is completed in 30 days.

One of the approved suppliers of mufflers and exhaust pipes, Scottie's Pipes, Inc., pays Belmont a rebate of 1% of all franchisee purchases, which is deposited in the Belmont Advertising Fund. Another approved supplier, Michael's Clean-Air, Inc., pays Belmont 2% of all franchisee purchases of catalytic converters. This amount is used in Belmont's training center for classes in catalytic converter repair and replacement.

Item 9

FRANCHISEE'S OBLIGATIONS

DISCLOSE THE PRINCIPAL OBLIGATIONS OF THE FRANCHISEE UNDER THE FRANCHISE AND OTHER AGREEMENTS AFTER THE SIGNING OF THESE AGREEMENTS.

Item 9 Instructions:

i. Disclose obligations in tabular form. Refer to the section of the agreement that contains the obligation and any item of the offering circular that further describes the obligation.

ii. The table should contain a response to each category listed below. If the response to any category is that no obligation is imposed, the table should state that. Do not change the names of the categories. Fit all obligations within the listed categories. If other material obligations fall outside the scope of all of the prescribed categories, add additional categories as needed. The categories of franchisee obligations are:

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- a. Site selection and acquisition/lease
- b. Pre-opening purchases/leases
- c. Site development and other pre-opening requirements
- d. Initial and ongoing training
- e. Opening
- f. Fees
- g. Compliance with standards and policies/Operating Manual
- h. Trademarks and proprietary information
- i. Restrictions on products/services offered
- j. Warranty and customer service requirements
- k. Territorial development and sales quotas
- l. Ongoing product/service purchases
- m. Maintenance, appearance and remodeling requirements
- n. Insurance
- o. Advertising
- p. Indemnification
- q. Owner's participation/management/staffing
- r. Records and reports
- s. Inspections and audits
- t. Transfer
- u. Renewal
- v. Post-termination obligations
- w. Non-competition covenants
- x. Dispute resolution
- y. Other (describe)

iii. Before the table, state the following:

THIS TABLE LISTS YOUR PRINCIPAL OBLIGATIONS UNDER THE FRANCHISE AND OTHER AGREEMENTS. IT WILL HELP YOU FIND MORE DETAILED INFORMATION ABOUT YOUR OBLIGATIONS IN THESE AGREEMENTS AND IN OTHER ITEMS OF THIS OFFERING CIRCULAR.

Sample Answer 9

THIS TABLE LISTS YOUR PRINCIPAL OBLIGATIONS UNDER THE FRANCHISE AND OTHER AGREEMENTS. IT WILL HELP YOU FIND MORE DETAILED INFORMATION ABOUT YOUR OBLIGATION IN THESE AGREEMENTS AND IN OTHER ITEMS OF THIS OFFERING CIRCULAR.

Obligation	Section In Agreement	Item in Offering Circular
a. <u>Site Selection and acquisition/lease</u>	<u>Section 2A of Franchise Agreement</u>	<u>Items 6 and 11</u>
b. <u>Pre-opening purchases/</u>	<u>Section 3D of Franchise</u>	<u>Item 8</u>

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- Leases
- Agreement
- c. Sections 3A and 3B of Franchise Agreement
- Items 6, 7, and 11
- d. Initial and ongoing training
- Section 5 of Franchise Agreement
- Item 11
- e. Opening
- Section 4 of Franchise Agreement
- Item 11
- f. Fees
- Section 6 of Franchise Agreement
- Items 5 and 6
- g. Compliance with standards and policies/Operating Manual
- Section 8A of Franchise Agreement
- Item 11
- h. Trademarks and proprietary information
- Sections 7 and 11 of Franchise Agreement
- Items 13 and 14
- i. Restrictions on products/services offered
- Section 12 of Franchise Agreement
- Item 16
- j. Warranty and customer service requirements
- Section 8B of Franchise Agreement
- Item 11
- k. Territorial development and sales quotas
- None
- l. Ongoing product/service purchases
- Section 9 of Franchise Agreement
- Item 8

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m. Maintenance, appearance and remodeling requirements	Sections 8C and 10 of Franchise Agreement	Item 11
n. Insurance	Section 13A of Franchise Agreement	Items 6 and 8
o. Advertising	Section 15 of Franchise Agreement	Items 6 and 11
p. Indemnification	Section 13B of Franchise Agreement	Item 6
q. Owner's participation/management/staffing	Sections 4, 5 and 14 of Franchise Agreement	Items 11 and 15
r. Records/reports	Section 17A of Franchise Agreement	Item 6
s. Inspections/audits	Section 17B of Franchise Agreement	Items 6 and 11
t. Transfer	Section 18 of Franchise Agreement	Item 17
u. Renewal	Section 20 of Franchise Agreement	Item 17
v. Post-termination obligations	Section 22 of Franchise Agreement	Item 17
w. Non-competition covenants	Sections 11, 18 and 22C of Franchise Agreement	Item 17
x. Dispute	Section 24	Item 17

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resolution of Franchise Agreement	Item 10
FINANCING	
DISCLOSE THE TERMS AND CONDITIONS OF EACH FINANCING ARRANGEMENT THAT THE FRANCHISOR, ITS AGENT OR AFFILIATE OFFERS DIRECTLY OR INDIRECTLY TO THE FRANCHISEE.	
Item 10 Instructions:	
i. "Financing" includes leases and installment contracts.	
ii. Payments due within 90 days on open account financing need not be disclosed under this Item.	
iii. A written arrangement between a franchisor or its affiliate and a lender for the lender to offer financing to the franchisee or an arrangement in which a franchisor or its affiliate receives a benefit from a lender for franchisee financing is an "indirect offer of financing" and must be disclosed under this Item. The franchisor's guarantee of a note, lease or obligation of the franchisee is an "indirect offer of financing" and must be disclosed under this Item.	
iv. If financing of the initial fee is disclosed in the Item 7 disclosure, a cross reference to Item 7 is sufficient if all the disclosure which Item 10 requires is provided in Item 7.	
v. If an affiliate offers financing, identify the affiliate and its relationship to the franchisor.	
vi. The franchisor may summarize the terms of each financing arrangement in tabular form, using footnotes to entries in the chart to provide additional information required by these instructions that does not fit in the chart.	
vii. If a financing arrangement is for the establishment of the franchised business, disclose what the financing covers, including: <ul style="list-style-type: none"> a) Initial franchise fee; b) Site acquisition; c) Construction or remodeling; d) Equipment or fixtures; and e) Opening inventory or supplies. 	
viii. If the franchisor generally offers financing for the operation of	

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the franchised business, disclose what the financing arrangement covers, including:

- a) Inventory or supplies;
- b) Replacement equipment or fixtures; and
- c) Other continuing expenses.

ix. Disclose the terms of each financing arrangement, including:

- a) The identity of the lender(s) providing the financing and its relationship to the franchisor (for example, affiliate);
- b) The amount of financing offered or, if the amount depends on an actual cost that may vary, the percentage of the cost that will be financed;
- c) The annual percentage rate of interest ("APR") charged, computed as provided by Sections 106-107 of the Consumer Protection Credit Act, 15 U.S.C. Secs. 106-107. If the APR may differ depending on when the financing is issued, disclose the APR on a specified recent date;
- d) The number of payments or the period of repayment;
- e) Nature of security interest required by the lender;
- f) Whether a person other than the franchisee (for example spouse, shareholder of the franchisee) must personally guarantee the debt;
- g) Whether the debt can be prepaid and the nature of any prepayment penalty;
- h) The franchisee's potential liabilities upon default, including any accelerated obligation to pay the entire amount due, court costs and attorney's fees for collection, and termination of the franchise, or other cross default clauses whether directly, as a result of non-payment, or indirectly, as a result of loss of necessary facilities; and
- i) Other material financing terms.

x. Include specimen copies of the financing documents as an exhibit to Item 22. Cite the section and name of the document containing the financing terms. Put this information in parentheses at the end of the description of the term.

xi. Use Sample Answer 10-1 if the franchisor does not offer financing.

A. A WAIVER OF DEFENSES OR SIMILAR PROVISIONS IN A DOCUMENT.

Item 10A Instructions:

i. Disclose the terms of waivers of legal rights by the franchisee under the terms of the financing arrangement (for example confession of judgment).

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ii. Describe provisions of the loan agreement that bar the franchisee from asserting a defense against the lender, the lender's assignee or the franchisor.

iii. If the loan agreement does not contain the provisions in (i) or (ii), disclose that fact.

iv. Cite the section and name of the document containing these terms. Put this information in parentheses at the end of the description of the term.

B. THE FRANCHISOR'S PRACTICE OR ITS INTENT TO SELL, ASSIGN, OR DISCOUNT TO A THIRD PARTY ALL OR PART OF THE FINANCING ARRANGEMENT.

Item 10B Instructions:

i. Practice includes past or present practice and future intent to sell or assign franchisee financing arrangements.

ii. Disclose the assignment terms including whether the franchisor will remain primarily obligated to provide the financed goods or services.

iii. If the franchisor may sell or assign its rights under the financing agreement, disclose that the franchise may lose all its defenses against the lender as a result of the sale or assignment.

iv. Cite the section and name of the document containing these terms. Put this information in parentheses at the end of the description of the term.

v. If no disclosure is required by Instruction 10B, disclose that fact.

C. PAYMENTS TO THE FRANCHISOR OR AN AFFILIATE(S) FOR THE PLACEMENT OF FINANCING WITH THE LENDER.

Item 10C Instructions:

i. Describe the payments.

ii. If no disclosure is required by Instruction 10C(i) for a financing arrangement, disclose that fact.

iii. Identify the source of the payment and the relationship of the source to the franchisor or its affiliates.

iv. Disclose the amount or the method of determining the payment.

v. Cite the section and name of the document containing these

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arrangements. Put this information in parentheses at the end of the description of the term.

Sample Answer 10-1

Belmont does not offer direct or indirect financing. Belmont does not guarantee your note, lease or obligation.

Sample Answer 10-2

SUMMARY OF FINANCING OFFERED						LOSS OF RIGHT ON DEFAULT	LOSS OF RIGHT ON DEFAULT
ITEM FINANCED (SOURCE)	AMOUNT FINANCED	DOWN PAYMENT	MONTHLY PAYMENT	APR	TERM (YRS)	SECURITY REQUIRED	
INITIAL FEE (NOTE 1)	\$10,000		\$	18	10	PERSONAL GUARANTEE	LOSS OF FRANCHISE RIGHTS - UNPAID LOAN
LAND/CONSTRUCT NONE							WAIVE NOTICE CONFESS JUDGMENT
LEASED SPACE (NOTE 2)	\$2,000 (SECUR. DEP.)		\$	N/A	7-10	PERSONAL GUARANTEE	LOSS OF FRANCHISE- BACK RENT - 2 MOS. - FRANCHISE RIGHTS - ATTY'S FEES
EQUIPMENT LEASE (NOTE 3)	\$5,000	NONE	\$	15	5	EQUIPMENT PERSONAL GUARANTEE	LOSS ALL DEFENSE
USA CREDIT CORP.)							
EQUIP PURCH (NOTE 4)	\$3,750	\$1,250 (25%)	\$	15	2-7	EQUIPMENT- PERSONAL GUARANTEE	LOSS OF FRANCHISE- ATTY'S FEES
IBELMONT)							
OPENING INVENT.	NONE						
OTHER FINANCING	NONE						

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Note 1 - If you meet Belmont's credit standards, Belmont will finance the \$10,000 initial franchise fee over a 10-year period at an APR of 18%, using the standard form note in Exhibit A. The only security Belmont requires is a personal guarantee of the note by you and your spouse or by all the shareholders of your corporation. (Loan Agreement Section) The note can be prepaid without penalty at any time during its 10-year term. (Loan Agreement Section) If you do not pay on time, Belmont can call the loan and demand immediate payment of the full outstanding balance and obtain court costs and attorney's fees if a collection action is necessary. (Loan Agreement Section) Belmont also has the right to terminate your franchise if you do not make your payments on time more than three times during the note term. (Loan Agreement Section) You waive your rights to notice of a collection action and to assert any defenses to collection against Belmont. (Loan Agreement Section) Belmont discounts these notes to a third party who may be immune under the law to any defenses to payment you may have against Belmont. (Loan Agreement Section)

Note 2 - In most cases Belmont will sublease the franchised premises to you but will guarantee your lease with a third party if you have acceptable credit and that is the only way to obtain an exceptional location. (Lease Section) The precise terms of Belmont's standard lease in Exhibit B will vary depending on the size and location of the premises, but the chart reflects a typical range of payments for Belmont's standard 6-day franchise outlet, including payment of one month's rent as a security deposit. (Lease Section) The only other security Belmont requires is a personal guarantee of the lease by you and your spouse or by all the shareholders of your corporation. (Lease Section) The lease can be prepaid without penalty at any time during its term. (Lease Section) If you do not make a rent payment on time, Belmont has the right to collect the unpaid rent plus an additional two months rent, as liquidated damages. (Lease Section) Belmont can also obtain court costs and attorney's fees if a collection action is necessary. (Lease Section) If you are late with your rent more than three times during the lease term, Belmont has the right to terminate the lease, take over the premises, and terminate your franchise. If Belmont guarantees your lease, Belmont will require you to sign the guarantee agreement in Exhibit F. (Lease Section) This gives Belmont the same legal rights as the sublease but requires you to give Belmont the right to approve your lease and pay the rent for you if you fail to pay on time. (Lease Section)

Note 3 - If you want to lease the pipe bending machine and other equipment you need, Belmont has arranged an equipment lease (see Exhibit C) from USA Credit Corporation of Las Vegas, Nevada. If you choose this option, you will pay \$100 a month for 60 months (5 years) at an APR of 15% based on a cash price of \$5,000, with no money down. (Equipment Lease Section) At the end of the lease term, you may purchase the equipment with a one-time payment of \$2,500. (Equipment Lease Section) USA Credit requires a personal guarantee from you and your spouse or from all the shareholders of your corporation and retains a security interest in the equipment. (Equipment Lease Section)

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Item 11
FRANCHISOR'S OBLIGATIONS

DISCLOSE THE FOLLOWING:

A. THE OBLIGATIONS THAT THE FRANCHISOR WILL PERFORM BEFORE THE FRANCHISE BUSINESS OPENS. CITE BY SECTION THE PROVISIONS OF THE AGREEMENT REQUIRING PERFORMANCE.

Item 11A Instructions:

i. Begin the disclosure by stating: "Except as listed below, (the franchisor) need not provide any assistance to you."

ii. Pre-opening obligations include assistance to:

- (a) Locate a site for the franchised business and negotiate the purchase or lease of this site. State whether the franchisor generally owns the premises and leases it to the franchisee;
- (b) Conform the premises to local ordinances and building codes and obtain the required permits (i.e., health, sanitation, building, driveway, utility and sign permits);
- (c) Construct, remodel or decorate the premises for the franchised business;
- (d) Purchase or lease equipment, signs, fixtures, opening inventory and supplies. Disclose whether the franchisor provides these items directly or merely the names of approved suppliers. Disclose whether the franchisor provides written specifications for these items. Disclose whether the franchisor delivers or installs these items. (The franchisor may cross reference Item 8 for details); and
- (e) Hire and train employees.

iii. After describing the obligation, cite the section number of the agreement imposing the obligation. Put the citation in parentheses. Use this format throughout this Item.

B. THE OBLIGATIONS TO BE MET BY THE FRANCHISOR DURING THE OPERATION OF THE FRANCHISE BUSINESS.

Item 11B Instructions:

I. Include assistance in:

- (a) Products or services to be offered by the franchisee to its customers;
- (b) Hiring and training of employees;

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The equipment lease can be prepaid at any time, but the interest you might otherwise save will be reduced by application of the Rule of 78's for computing finance charges. (Equipment Lease Section) If you do not make a payment on time, USA Credit can demand payment of all past due payments, remove the equipment, and charge you \$1,000 as liquidated damages. (Equipment Lease Section) USA Credit can also recover its costs of collection, including court costs and attorney's fees. (Equipment Lease Section) While Belmont does not know USA Credit's policies, USA Credit may discount the lease to a third party who may be immune under the law to claims or defenses you may have against USA Credit, the equipment manufacturer or Belmont. Belmont receives a referral fee of \$500 from USA Credit for every franchisee who leases equipment from it.

Note 4 - If you prefer, Belmont will sell you the pipe bending machine and other necessary equipment on time. (Equipment Purchase Agreement Section) Belmont requires a 25% down payment of \$1,250. (Equipment Purchase Agreement Section) Belmont will finance the remainder over a 2-7 year period at your option at an APR of 15%. (Equipment Purchase Agreement Section) Payments range from \$228.11 a month over 7 years to \$821.58 a month over 2 years. (Equipment Purchase Agreement Section) Belmont's standard equipment financing note in Exhibit D must be personally guaranteed by you and your spouse or by all the shareholders of your corporation, and Belmont will retain a security interest in the equipment. (Equipment Purchase Agreement Section) You may purchase the equipment at any time during the lease period by paying the remainder of the principal plus a \$500 prepayment penalty. (Equipment Purchase Agreement Section) If you do not make a payment on time, Belmont can demand all overdue payments, repossess the equipment, and terminate your franchise. Belmont can also recover its costs of collection, including court costs and attorney's fees. (Equipment Purchase Agreement Section)

Except as disclosed in Note 1, Belmont does not offer financing that requires you to waive notice, confess judgment or waive a defense against Belmont or the vendor, although you may lose your defenses against Belmont and others in a collection action on a note that is sold or discounted, as disclosed in Notes 2 and 3.

Except as disclosed in Note 3, Belmont does not arrange financing from other sources.

Except as disclosed in Notes 1 and 3, commercial paper from franchisees has not been and is not sold or assigned to anyone, and Belmont has no plans to do so.

Except as disclosed in Note 3, Belmont does not receive direct or indirect payments for placing financing.

Except as disclosed in Note 2, Belmont does not guarantee your obligations to third parties.

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- (c) Improvements and developments in the franchised business;
 (d) Pricing;
 (e) Administrative, bookkeeping, accounting and inventory control procedures; and
 (f) Operating problems encountered by the franchisee.

ii. For the franchisor's advertising program for the product or service offered by the franchisee:

- (a) Disclose the media in which the advertising may be disseminated (for example, print, radio, or television).
 (b) Disclose whether the coverage of the media is local, regional, or national in scope.
 (c) Disclose the source of the advertising (for example, in-house advertising department, a national or regional advertising agency).
 (d) Disclose the conditions when the franchisor permits franchisees to use their own advertising material.
 (e) If there is an advertising council composed of franchisees that advises the franchisor on advertising policies, disclose:
 (1) How members of the council are selected.
 (2) Whether the council serves in an advisory capacity only or has operational or decision-making power.
 (3) Whether the franchisor has the power to form, change, or dissolve the advertising council.
 (f) If the franchisee must participate in a local or regional advertising cooperative, disclose:

- (1) How the area or membership of the cooperative is defined.
 (2) How the franchisee's contribution to the cooperative is calculated (may reference Item 6).
 (3) Who is responsible for administration of the cooperative (for example, franchisor, franchisees, advertising agency).
 (4) Whether cooperatives must operate from written governing documents and whether the documents are available for review by the franchisee.
 (5) Whether cooperatives must prepare annual or periodic financial statements and whether the statements are available for review by the franchisee.
 (6) Whether the franchisor has the power to require cooperatives to be formed, changed, dissolved or merged.
 (g) If applicable, for each advertising fund not described in above subsection (f), disclose:
 (1) Who contributes to each fund (for example, franchisees, franchisor, franchisor-owned units, outside vendors or suppliers).
 (2) Whether the franchisor-owned units must contribute to the fund and, if so, whether it is on the same bases as franchisees.

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- (3) How much the franchisee must contribute to the advertising fund(s) (may reference Item 6) and whether other franchisees are required to contribute at a different rate (it is not necessary to disclose the specific rates).
 (4) Who administers the fund(s). Whether the fund is audited and when, and whether financial statements of the fund are available for review by the franchisee.
 (5) Use of the fund(s) in the most recently concluded fiscal year, the percentages spent on production, media placement, administrative expenses, and other (with a description of what constitutes "other"). Totals should equal 100%.
 (6) Whether the franchisor or an affiliate receives payment for providing goods or services to an advertising fund.
 (h) State whether the franchisor must spend any amount on advertising in the area or territory where the franchisee is located.
 (i) If all advertising fees are not spent in the fiscal year in which they accrue, explain how the franchisor uses the remaining amounts. Indicate whether franchisees will receive a periodic accounting of how advertising fees are spent.
 (j) Disclose the percentage of advertising funds, if any, used for advertising that is principally a solicitation for the sale of franchisees.
 (k) Cross reference Items 6, 8 and 9.

iii. If the franchisor requires that franchisees buy or use electronic cash register or computer systems, provide a general description of the systems in non-technical language:

- (a) Identify each hardware component and software program by brand, type and principal functions.
 (1) If the hardware component or software program is the proprietary property of the franchisor, an affiliate or a third party, state whether the franchisor, an affiliate or a third party has the contractual right or obligation to provide ongoing maintenance, repairs, upgrades or updates. Disclose the current annual cost of any optional or required maintenance and support contracts, upgrades and updates.
 (2) If the hardware component or software program is the proprietary property of a third party, and no compatible equivalent component or program has been approved by the franchisor for use with the system to perform the same functions, identify the third party by name, business address and telephone number, and state the length of time the component or program has been in continuous use by the franchisor and its franchisees.

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(3) If the hardware component or software program is not proprietary, identify compatible equivalent components or programs that perform the same functions and indicate whether they have been approved by the franchisor.

(b) State whether the franchisee has any contractual obligation to upgrade or update any hardware component or software program during the term of the franchise, and if so, whether there are any contractual limitations on the frequency and cost of the obligation.

(c) For each electronic cash register system or software program, describe how it will be used in the franchisee's business, and the type of business information or data that will be collected and generated. State whether the franchisor will have independent access to the information and data, and if so, whether there are any contractual limitations on the franchisor's right to access the information and data.

iv. After describing the obligation, cite the section number of the agreement imposing the obligation. Put the citation in parentheses.

v. Disclose if the franchisor is not obligated to provide or to assist the franchisee to obtain the above items or services.

vi. Do not repeat, but do cross reference disclosure made in Item 6.

vii. Disclose the table of contents of the operating manual(s) provided to the franchisee as of the franchisor's last fiscal year end or a more recent date. State the number of pages devoted to each subject and the total number of pages in the manual as of this date. Alternatively, this disclosure may be omitted if the prospective franchisee views the manual before purchase of the franchise.

C. THE METHODS USED BY THE FRANCHISOR TO SELECT THE LOCATION OF THE FRANCHISEE'S BUSINESS.

Item 11C Instructions:

i. Disclose whether the franchisor selects the site or approves an area within which the franchisee selects a site. Disclose how and whether the franchisor must approve a franchisee selected site.

ii. Disclose the factors which the franchisor considers in selecting or approving sites (for example, general location and neighborhood, traffic patterns, parking, size, physical characteristics of existing buildings and lease terms).

iii. Disclose the time limit for the franchisor to locate or to approve or

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disapprove the site. Disclose the consequences if the franchisor and franchisee cannot agree on a site.

iv. Disclosure made in response to Item 11A need not be repeated or cross referenced in the response to Item 11C.

D. THE TYPICAL LENGTH OF TIME BETWEEN THE SIGNING OF THE FRANCHISE AGREEMENT OR THE FIRST PAYMENT OF CONSIDERATION FOR THE FRANCHISE AND THE OPENING OF THE FRANCHISEE'S BUSINESS.

Item 11D Instructions:

i. Disclosure may be a range of times if the range is specific.

ii. Describe the factors which may affect the time period such as ability to obtain a lease, financing or building permits, zoning and local ordinances, weather conditions, shortages, or delayed installation of equipment, fixtures and signs.

E. THE TRAINING PROGRAM OF THE FRANCHISOR AS OF THE FRANCHISOR'S LAST FISCAL YEAR END OR A MORE RECENT DATE INCLUDING:

(1) The location, duration and general outline of the training program;

(2) How often the training program will be conducted;

(3) The experience that the instructors have with the franchisee;

(4) Charges to be made to the franchisee and who must pay travel and living expenses of the enrollees in the training program;

(5) If the training program is not mandatory, the percentage of new franchisees that enrolled in the training program during the preceding 12 months; and

(6) Whether any additional training programs and/or refresher courses are required.

Item 11F Instructions:

i. Use a table to state the subjects taught and the number of hours of classroom and "on the job training" devoted to each subject in the franchisor's training program. Use footnotes to explain.

ii. For each subject disclose the training location and how often training classes are held.

iii. Describe the location or facility where the training is held (for example, company, home, office, company owned store).

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- iv. State how long after the signing of the agreement or before the opening date of the business the franchisee must complete the required training.
- v. Describe the nature of instruction material. Disclose the minimum experience of the instructors. Disclose only experience that is relevant to the subject taught and the franchisor's operations.
- vi. State who may and who is required to attend the training. State whether the franchisee or other persons must complete the program to the franchisor's satisfaction.
- vii. Charges for training or training materials should be disclosed in Item 5 if the obligation to pay arises before the franchise location opens.
- viii. Disclose who pays the travel and living expenses of the persons receiving the training.

Sample Answer 11

Except as disclosed below, Belmont need not provide any assistance to you.

Before you open your business, Belmont will:

- (1) Designate your exclusive territory (Franchise Agreement - paragraph 2).
- (2) Assist you in selecting a business site. Your site must be at least square feet in area, have parking spaces, and an average of cars per hour driving by. We must approve or disapprove your site within 20 days after we receive notice of the location.
- (3) Within 30 days of your signing the Franchise Agreement, assist you to find and negotiate the lease or purchase of a location for your muffler shop (Franchise Agreement - paragraph). Your store location will be purchased or leased by you from independent third parties.
- (4) Within 60 days of your signing the Franchise Agreement, provide written specifications for store construction or remodeling and for all required and replacement equipment, inventory and supplies (Franchise Agreement - paragraph). See Item 8 of this offering circular.

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- (5) Within 60 days of your signing the Franchise Agreement, provide blueprints for your store construction or remodeling and obtain health, sanitation, building, utility and sign permits for your premises. You pay for the construction or remodeling (Franchise Agreement - paragraph).
- (6) Within 60 days of your signing the Franchise Agreement, train you and one other person as follows:

SUBJECT	TIME BE-GUN	INSTRUC-TIONAL MATERIAL	HOURS OF CLASSROOM TRAINING	HOURS OF ON THE JOB TRAINING	INSTRUC-TOR

Belmont does not charge for this training or service, but you must pay the travel and living expenses for you and your employees. All training occurs at Belmont's Jackson, Minnesota headquarters.

During the operation of the franchised business, Belmont will:

- (1) Develop new products and methods and provide you with information about developments (Franchise Agreement - paragraph).
- (2) Loan you a copy of our operations manual which contains mandatory and suggested specifications, standards and procedures. This manual is confidential and remains our property. Belmont will modify this manual, but the modification will not alter your status and rights under the Franchise Agreement (Franchise Agreement - paragraph). The table of contents is as follows:

Each week for the first 90 days after you open your shop, Belmont will telephone to discuss your operational problems.

Belmont will hold annual conferences to discuss sales techniques, personnel training, bookkeeping, accounting, inventory control, performance standards, advertising program and merchandising procedures. There is no conference fee, but you must pay all your travel and living expenses. These elective conferences are held at our Jackson, Minnesota headquarters or at a location chosen by a majority vote of all franchisees.

Belmont provides advertising materials and services to you through a national

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advertising fund (the "National Fund"). Materials provided by the National Fund to all franchisees include video and audio tapes, mats, posters, banners and miscellaneous point-of-sale items. You will receive one sample of each at no charge. If you want additional copies you must pay duplication costs.

You may develop advertising materials for your own use, at your own cost. Belmont must approve the advertising materials in advance and in writing.

Belmont occasionally provides for placement of advertising on behalf of the entire Belmont system, including franchisees. However, most placement is done on a local basis, typically by local advertising agencies hired by individual franchisees or advertising cooperatives. Belmont reserves the right to use advertising fees from the Belmont system to place advertising in national media (including broadcast, print or other media) in the future. In the past Belmont has used an outside advertising agency to create and place advertising. Neither Belmont nor its affiliate receives payment from the National Fund. Advertising funds are used to promote the product sold by the franchisee and are not used to sell additional franchisees.

The National Fund is a nonprofit corporation which collects advertising fees from all franchisees. Each franchisor owned store of Belmont contributes to the National Fund on the same basis as franchisees. All payments to the National Fund must be spent on advertising, promotion and marketing of goods and services provided by Belmont Muffler Shops. You must contribute the amounts described in Item 6, under the heading "Advertising Fees and Expenses."

The National Fund is administered by Belmont's accounting and marketing personnel under the direction of the Advertising Council. An annual audited financial statement of the National Fund is available to any franchisee upon request. During the last fiscal year of the National Fund (ending on December 31, 1990), the National Fund spent 39% of its income on the production of advertisements and other promotional materials, 36% for media placement, 18% for general and administrative expenses, and 7% for other expenses (the purchase of glassware given to customers of Belmont shops as part of a promotional campaign).

The Advertising Council acts as the board of directors of the National Fund. The Advertising Council has 8 members: the President, Treasurer, Vice President-Marketing, and Vice President-Operations of Belmont; and 4 franchisee representatives who are elected by the governing board of the Belmont Franchisee Association.

Once your shop opens, you must participate in the local advertising cooperative established in the Area of Dominant Influence (ADI) where your store is located. The amount of your contribution to the local advertising cooperative is described in Item 6 under the heading "Advertising Fees and Expenses."

Each local advertising cooperative must adopt written governing documents. A

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copy of the governing documents of the cooperative (if one has been established) for your ADI is available upon request. Each cooperative may determine its own voting procedures; however, each company-owned Belmont Shop will be entitled to one vote in any local advertising cooperative. The members and their elected officers are responsible for administration of the cooperative. Advertising cooperatives must prepare quarterly and annual financial statements. The annual financial statement must be prepared by an independent CPA and be made available to all franchisees in that advertising cooperative.

You select your business site within your exclusive area subject to our approval. Belmont assists in site selection by telling you the number of new car registrations, population density, traffic patterns and proximity of the proposed site to other Belmont Muffler Shops.

Franchisees typically open their shops 4 to 7 months after they sign a franchise agreement. The factors that affect this time are the ability to obtain a lease, financing or building permits, zoning and local ordinances, weather conditions, shortages, and delayed installation of equipment fixtures and signs.

Item 12

TERRITORY

DESCRIBE ANY EXCLUSIVE TERRITORY GRANTED THE FRANCHISEE. CONCERNING THE FRANCHISEE'S LOCATION (WITH OR WITHOUT EXCLUSIVE TERRITORY), DISCLOSE WHETHER:

A. THE FRANCHISOR HAS ESTABLISHED OR MAY ESTABLISH ANOTHER FRANCHISEE WHO MAY ALSO USE THE FRANCHISOR'S TRADEMARK.

B. THE FRANCHISOR HAS ESTABLISHED OR MAY ESTABLISH A COMPANY-OWNED OUTLET OR OTHER CHANNELS OF DISTRIBUTION USING THE FRANCHISOR'S TRADEMARK.

Item 12 Instructions:

i. As used in Item 12, trademark includes name, trademarks, logos and other commercial symbols.

ii. If appropriate, describe the minimum area granted to the franchisee. The franchisor may use an area encompassed within a specific radius, a distance sufficient to encompass a specified population or another specific designation.

iii. State whether the franchise is granted for a specific location or a location to be approved by the franchisor.

iv. If appropriate, state the conditions under which the franchisor will

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approve the relocation of the franchised business or the establishment of additional franchised outlets.

v. Describe restrictions on the franchisor regarding operating company-owned stores or on granting franchised outlets for a similar or competitive business within the defined area.

vi. Describe restrictions on franchisees from soliciting or accepting orders outside of their defined territories.

vii. Describe restrictions on the franchisor from soliciting or accepting order inside the franchisee's defined territory. State compensation that the franchisor must pay for soliciting or accepting orders inside the franchisee's defined territories.

viii. Describe franchisees options, rights of first refusal or similar rights to acquire additional franchises within the territory or contiguous territories.

ix. If the franchisor does not grant territorial rights, use sample answer 12-1.

C. THE FRANCHISOR OR ITS AFFILIATE HAS ESTABLISHED OR MAY ESTABLISH OTHER FRANCHISES OR COMPANY-OWNED OUTLETS OR ANOTHER CHANNEL OF DISTRIBUTION SELLING OR LEASING SIMILAR PRODUCTS OR SERVICES UNDER A DIFFERENT TRADEMARK.

Item 12C Instructions:

i. "Similar products and services" includes competing, interchangeable or substitute products but not products or services which are not part of the same product or service market.

ii. If the franchisor or an affiliate operates, franchises or has present plans to operate or franchise a business under a different trademark and that business sells goods or services similar to those to be offered by the franchisee, describe:

- (a) The similar goods and services;
- (b) The trade names and trademarks;
- (c) Whether outlets will be franchisor owned or operated;
- (d) Whether the franchisor or its franchisees who use the different trademark will solicit or accept orders within the franchisee's territory;
- (e) A timetable for the plan;
- (f) How the franchisor will resolve conflicts between the franchisor and the franchisees and between the franchisees of each system regarding territory, customers or franchisor support; and

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(g) If appropriate, disclose the principal business address of the franchisor's similar operating business. If it is the same as the franchisor's principal business address disclosed in Item 1, disclose whether the franchisor maintains (or plans to maintain) physically separate offices and training facilities for the similar competing business.

D. CONTINUATION OF THE FRANCHISEE'S TERRITORIAL EXCLUSIVITY DEPENDS ON ACHIEVEMENT OF A CERTAIN SALES VOLUME, MARKET PENETRATION OR OTHER CONTINGENCY AND UNDER WHAT CIRCUMSTANCES THE FRANCHISEE'S TERRITORY MAY BE ALTERED.

Item 12D Instructions:

i. Disclose conditions for the franchisee's keeping its territorial rights (for example, sales quotas or the opening of additional business outlets). Specify the quotas or conditions and the franchisor's rights if the franchisee fails to meet the requirements.

ii. Disclose other circumstances that permit the franchisor to modify the franchisee's territorial rights (for example, a population increase in the territory giving the franchisor the right to grant an additional franchise within the area). Disclose the effect on the franchisee's rights.

Sample Answer 12-1

You will not receive an exclusive territory. Belmont may establish other franchised or company owned outlets that may compete with your location.

Sample Answer 12-2

You will receive an exclusive territory with a minimum population of 50,000 people. You will operate from one location and must receive Belmont's permission before relocating. Belmont will not operate stores or grant franchises for a similar or competitive business within your area. Except when advertising cooperatively with appropriate franchisees, neither Belmont nor you can advertise or solicit orders within another franchisee's territory. You and Belmont can accept orders from outside your territory without special payment.

You do not receive the right to acquire additional franchises within your area. There is no minimum sales quota. You maintain rights to your area even though the population increases.

Item 13

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TRADEMARKS

DISCLOSE THE PRINCIPAL TRADEMARKS TO BE LICENSED TO THE FRANCHISEE INCLUDING:

Item 13 Instructions:

i. As used in Item 13, "principal trademarks" means the primary trademarks, service marks, names, logos and symbols to be used by the franchisee to identify the franchised business. It does not include every trademark owned by a franchisor.

ii. The franchisor may limit Item 13 disclosure to information that is relevant to the state where the franchised business will be located. The franchisor may include all states to eliminate the need for multiple disclosure in Item 13 but must amend its offering circular to reflect any material change in the list.

A. WHETHER THE PRINCIPAL TRADEMARKS ARE REGISTERED WITH THE UNITED STATES PATENT AND TRADEMARK OFFICE. FOR EACH REGISTRATION STATE THE REGISTRATION DATE AND NUMBER AND WHETHER THE REGISTRATION IS ON THE PRINCIPAL OR SUPPLEMENTAL REGISTER.

Item 13A Instructions:

i. Identify each principal trademark which the franchisee may use. The franchisor may reproduce these trademarks in this item.

ii. State the date and identification number of each trademark registration or registration application listed. State whether the franchisor has filed all required affidavits. State whether any registration has been renewed.

iii. State whether the principal trademarks are registered on the principal or supplemental register of the U.S. Patent and Trademark Office, and if not, whether an "intent to use" application or an application based on actual use has been filed with the U.S. Patent and Trademark Office. If the principal trademark to be used by the franchisee is not registered on the Principal Register of the U.S. Patent and Trademark Office, state:

By not having a principal federal registration for (name or description of symbol), (name of franchisor) does not have certain presumptive legal rights granted by a registration.

B. DISCLOSE CURRENTLY EFFECTIVE MATERIAL DETERMINATIONS OF THE PATENT AND TRADEMARK OFFICE, TRADEMARK TRIAL AND APPEAL BOARD, THE TRADEMARK ADMINISTRATOR OF THIS STATE OR ANY COURT; PENDING INFRINGEMENT, OPPOSITION OR CANCELLATION; AND PENDING MATERIAL LITIGATION INVOLVING THE PRINCIPAL TRADEMARKS.

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Item 13B Instructions:

i. Litigation or an action is material if it could significantly affect the ownership or use of a trademark listed under Item 13. Describe how the determination affects the ownership, use or licensing. Describe any decided infringement, cancellation or opposition proceedings. Include infringement, opposition or cancellation proceedings in which the franchisor unsuccessfully sought to prevent registration of a trademark in order to protect a trademark licensed by the franchisor.

ii. For pending material federal or state litigation regarding the franchisor's use or ownership rights in a trademark disclose:

(a) The forum and case number;

(b) The nature of claims made opposing the franchisor's use or by the franchisor opposing another person's use; and

(c) Any effective court or administrative agency ruling concerning the matter.

iii. Do not repeat disclosure made in response to Item 13A.

iv. The franchisor need not disclose historical challenges to registrations of trademarks listed in Item 13 that were resolved in the franchisor's favor.

v. The franchisor may include an attorney's opinion relative to the merits of litigation or of an action if the attorney issuing the opinion consents to its use. The text of the disclosure may include a summary of the opinion if the full opinion is attached and the attorney issuing the opinion consents to the use of the summary.

C. DISCLOSE AGREEMENTS CURRENTLY IN EFFECT WHICH SIGNIFICANTLY LIMIT THE RIGHTS OF THE FRANCHISOR TO USE OR LICENSE THE USE OF TRADEMARKS LISTED IN ITEM 13 IN A MANNER MATERIAL TO THE FRANCHISEE.

Item 13C Instructions:

For each agreement disclose:

i. The manner and extent of the limitation of grant;

ii. The agreement's duration;

iii. The parties to the agreement.

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- iv. The circumstances under which the agreement may be cancelled or modified; and
- v. All other material terms.

D. WHETHER THE FRANCHISOR MUST PROTECT THE FRANCHISEE'S RIGHT TO USE THE PRINCIPAL TRADEMARKS LISTED IN ITEM 13, AND MUST PROTECT THE FRANCHISEE AGAINST CLAIMS OF INFRINGEMENT OR UNFAIR COMPETITION ARISING OUT OF THE FRANCHISEE'S USE OF THEM.

Item 13D Instructions:

- i. Disclose the franchisee's obligation to notify the franchisor of the use of, or claims of rights to, a trademark identical to, or confusingly similar to, a trademark licensed to the franchisee.
- ii. State whether the franchise agreement requires the franchisor to take affirmative action when notified of these uses or claims. Identify who has the right to control administrative proceedings or litigation.
- iii. State whether the franchise agreement requires the franchisor to participate in the franchisee's defense and/or indemnify the franchisee for expenses or damages if the franchisee is a party to an administrative or judicial proceeding involving a trademark licensed by the franchisor to the franchisee, or if the proceeding is resolved unfavorably to the franchisee.
- iv. Disclose the franchisee's rights under the franchise if the franchisor requires the franchisee to modify or discontinue the use of a trademark as a result of a proceeding or settlement.

E. WHETHER THE FRANCHISOR ACTUALLY KNOWS OF EITHER SUPERIOR PRIOR RIGHTS OR INFRINGING USES THAT COULD MATERIALLY AFFECT THE FRANCHISEE'S USE OF THE PRINCIPAL TRADEMARKS IN THIS STATE OR THE STATE IN WHICH THE FRANCHISED BUSINESS IS TO BE LOCATED.

Item 13E Instructions:

For each use of a principal trademark that the franchisor believes constitutes an infringement that could materially affect the franchisee's use of a trademark, state:

- i. The location(s) where the infringement is occurring;
- ii. To the extent known, the length of time of the infringement; and
- iii. Action taken by the franchisor.

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If the franchisor knows of a use of a trademark by another in a geographic area relevant to the franchisee which is or is likely to be based on a claim of superior prior rights to the franchisor's, state the nature of the use by the other person and the place or area where it is occurring.

Sample Answer 13

Belmont grants you the right to operate a shop under the name Belmont Muffler Shop. You may also use our other current or future trademarks to operate your shop. By trademark Belmont means trade names, trademarks, service marks and logos used to identify your shop. Belmont registered the below trademark on the United States Patent and Trademark Office principal register:

You must follow our rules when you use these marks. You cannot use a name or mark as part of a corporate name or with modifying words, designs or symbols except for those which Belmont licenses to you. You may not use Belmont's registered name in connection with the sale of an unauthorized product or service or in a manner not authorized in writing by Belmont.

On June 4, 1973, the United States Patent and Trademark Office rejected Belmont's application to register the mark "Super Mufflers" because the mark was found to be confusingly similar to a registered mark. Belmont's inability to register this mark on a federal level permits others to establish rights to use the mark. This use will not be in areas where our franchisees are operating, or advertising under the mark, or in the natural zone of expansion for Belmont's shops. In addition, these users must act in good faith and without actual knowledge of Belmont's prior use of the mark. However, if others establish rights to use Belmont's mark, Belmont may not be able to expand into these areas using the mark.

No agreements limit Belmont's right to use or license the use of Belmont's trademarks.

You must notify Belmont immediately when you learn about an infringement of, or challenge to, your use of our trademark. Belmont will take the action we think appropriate. While Belmont is not required to defend you against a claim against your use of our trademark, Belmont will reimburse you for your liability and reasonable costs in connection with defending Belmont's trademark. To receive reimbursement you must have notified Belmont immediately when you learned about the infringement or challenge.

You must modify or discontinue the use of a trademark if Belmont modifies or discontinues it. If this happens, Belmont will reimburse you for your tangible costs of compliance (for example, changing signs). You must not directly or indirectly contest our right to our trademarks, trade secrets or business techniques that are part of our business.

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Belmont does not know of any infringing uses that could materially affect your use of Belmont's trademark.

or

John E. Jones, 4231 Main Street, Reno, Nevada is currently doing business as Belmont Muffler Shoppe at 4231 Main Street, Reno, Nevada. We believe that this is an infringing use of our federally registered trademark "Belmont Muffler Shop," and we have filed an action to enjoin Mr. Jones and to recover damages. If the court holds that Mr. Jones' use is not infringing, Belmont may not be able to use Belmont's trademark in Mr. Jones' immediate area. (Belmont Muffler Shop v. Belmont Muffler Shoppe-cite)

Item 14

PATENTS, COPYRIGHTS AND PROPRIETARY INFORMATION

IF THE FRANCHISOR OWNS RIGHTS IN PATENTS OR COPYRIGHTS THAT ARE MATERIAL TO THE FRANCHISE, DESCRIBE THESE PATENTS AND COPYRIGHTS AND THEIR RELATIONSHIP TO THE FRANCHISE. INCLUDE THEIR DURATION AND WHETHER THE FRANCHISOR CAN AND INTENDS TO RENEW THE COPYRIGHTS. TO THE EXTENT RELEVANT, DISCLOSE THE INFORMATION REQUIRED BY ITEM 13 CONCERNING THESE PATENTS AND COPYRIGHTS. IF THE FRANCHISOR CLAIMS PROPRIETARY RIGHTS IN CONFIDENTIAL INFORMATION OR TRADE SECRETS, DISCLOSE THEIR GENERAL SUBJECT MATTER AND THE TERMS AND CONDITIONS FOR USE BY THE FRANCHISEE.

Item 14 Instructions:

- i. State the patent number, issue date and title for each patent. State the serial number, filing date and title of each patent application. Describe the type of patent or patent application (for example mechanical, process, or design). State the registration number and date of each copyright.
- ii. Describe the relationship of the patent, patent application or copyright to the franchised business.
- iii. Describe any current determination of the Patent and Trademark Office, Copyright Office (Library of Congress) or court regarding the patent or copyright. Include the forum, case number and effect on the franchised business.
- iv. State the forum, case number, claims asserted, issues involved and effective determinations for any proceedings pending in the Patent and Trademark Office or the Court of Appeals for the Federal Circuit.
- v. If counsel consents, the franchisor may include a counsel's opinion or a summary of the opinion about patent or copyright issues discussed in

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this item.

- vi. If an agreement limits the use of the patent, patent application or copyright, state the parties to and duration of the agreement, the extent to which the franchisee may be affected by the agreement, and other material terms of the agreement.
- vii. Disclose the franchisor's obligation to protect the patent, patent application or copyright. State:
 - (a) Whether franchisee must notify the franchisor of claims or infringements or if the action is discretionary.
 - (b) Whether the franchisor must take affirmative action when notified of infringement or if the action is discretionary.
 - (c) Who has the right to control litigation.
 - (d) Whether the franchisor must participate in the defense of a franchisee or indemnify the franchisee for expenses or damages in a proceeding involving a patent, patent application or copyright licensed to the franchisee.
 - (e) Requirements that the franchisee modify or discontinue use of the subject matter covered by the patent or copyright.
 - (f) Franchisee's rights if the franchisor requires the franchisee to modify or discontinue the use of the subject matter covered by the patent or copyright.

viii. If the franchisor actually knows of an infringement that could materially affect the franchisee, state:

- (a) The nature of the infringement.
- (b) The location(s) where the infringement is occurring.
- (c) The length of time of the infringement.
- (d) Action taken or anticipated by the franchisor.

ix. State whether the franchisor intends to renew the copyright when the registration expires.

x. Discuss in general terms other proprietary information communicated to the franchisee (for example, whether there is a formula or recipe considered to be a trade secret).

xi. Use sample answer 14-1 if no patents or copyrights are material to the franchise.

Sample Answer 14-1

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No patents or copyrights are material to the franchise.

Sample Answer 14-2

You do not receive the right to use an item covered by a patent or copyright, but you can use the proprietary information in Belmont's Operations Manual. The Operations Manual is described in Item 11. Although Belmont has not filed an application for a copyright registration for the Operations Manual, it claims a copyright and the information is proprietary. Item 11 describes limitations on the use of this manual by you and your employees.

You must also promptly tell us when you learn about unauthorized use of this proprietary information. Belmont is not obligated to take any action but will respond to this information as we think appropriate. Belmont will indemnify you for losses brought by a third party concerning your use of this information.

Sample Answer 14-3

U.S. Patent 3999442 was issued on December 14, 1980. It describes a process for exhaust system installation. The process describes the steps in making a straight length of exhaust pipe, bending this pipe, coating the inside and outside of this pipe with our Pipe Protector and installing the exhaust pipe on a motor vehicle. You will use equipment utilizing this process.

On December 15, 1970, Belmont obtained a copyright registration for its Operations Manual under Registration A41139. Amendments to the manual were registered on January 7, 1983 (Reg. A521,371) and June 6, 1974 (Reg. A 541,333). Belmont intends to renew these copyrights. Item 11 of this Offering Circular describes the Operations Manual and the manner in which you are permitted to use it.

Belmont's right to use or license these patents and copyrighted items is not materially limited by any agreement or known infringing use.

You must tell us immediately if you learn about an infringement or challenge to our use of these patents or copyrights. Belmont will take the action that Belmont thinks appropriate. You must also agree not to contest Belmont's interest in these or our other trade secrets.

If Belmont decides to add, modify or discontinue the use of an item or process covered by a patent or copyright, you must also do so. Belmont's sole obligation is to reimburse you for the tangible cost of complying with its obligation.

Although Belmont is not obligated to defend your use of these items or processes, Belmont will reimburse you for damages and reasonable costs incurred in litigation about them.

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Item 15OBLIGATION TO PARTICIPATE IN THE ACTUAL OPERATION OF THE FRANCHISE BUSINESS

DISCLOSE THE FRANCHISEE'S OBLIGATION TO PARTICIPATE PERSONALLY IN THE DIRECT OPERATION OF THE FRANCHISE BUSINESS AND WHETHER THE FRANCHISOR RECOMMENDS PARTICIPATION.

Item 15 Instructions:

i. Include obligations arising from written agreement (including personal guaranty, confidentiality agreement or noncompetition agreement) or from the franchisor's practice.

ii. If personal "on premises" supervision is not required:

(a) If the franchisee is an individual, state whether the franchisor recommends "on premises" supervision by the franchisee;

(b) State limitations on whom the franchisee can hire as an on premises supervisor;

(c) Whether this "on premises" supervisor must successfully complete the franchisor's training program; and

(d) If the franchisee is a business entity, state the amount of equity interest that the "on premises" supervisor must have in the franchise.

iii. Disclose the restrictions which the franchisee must place on its manager (for example, maintain trade secrets, non-competition).

iv. The franchisor may reference Items 14 and 17 in its answer.

Sample Answer 15-1

If you are an individual, you must directly supervise the franchised business on its premises. If you are a corporation, the direct, on-site supervision must be done by a person who owns at least 1/3 of the corporate equity.

Sample Answer 15-2

Belmont does not require that you personally supervise the franchised business. The business must be directly supervised "on premises" by a manager who has successfully completed Belmont's training program. The on premises manager cannot have an interest or business relationship with any of Belmont's business

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competitors. The manager need not have an ownership interest in a corporate or partnership franchisee. The manager must sign a written agreement to maintain confidentiality of the trade secrets described in Item 14 and to conform with the covenants not to compete described in Item 17.

Each individual who owns a 5% or greater interest in the franchisee entity must sign an agreement (Exhibit) assuming and agreeing to discharge all obligations of the "franchisee" under the Franchise Agreement.

Item 16

RESTRICTIONS ON
WHAT THE FRANCHISEE MAY SELL

DISCLOSE RESTRICTIONS OR CONDITIONS IMPOSED BY THE FRANCHISOR ON THE GOODS OR SERVICES THAT THE FRANCHISEE MAY SELL OR THAT LIMIT THE CUSTOMERS TO WHOM THE FRANCHISEE MAY SELL GOODS OR SERVICES.

Item 16 Instructions:

- i. Describe the franchisee's obligation to sell only goods and services approved by the franchisor.
- ii. Disclose any franchisee obligation to sell all goods and services authorized by the franchisor. Disclose whether the franchisor has the right to change the types of authorized goods and service and whether there are limits on the franchisor's right to make changes.
- iii. If the franchisee is restricted regarding customers, disclose the restrictions.
- iv. The applicant may cross reference disclosures made in Items 8, 9, and 12.
- v. Use sample answer 16-1 for a negative response.

Sample Answer 16-1

Belmont does not restrict the type of goods or services that you may offer.

Sample Answer 16-2

Belmont requires you to offer and sell only those goods and services that Belmont has approved (see Item 9).

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You must offer all goods and services that Belmont designates as required for all franchisees. These required services are muffler inspection, repair and replacement. Parts, supplies, and equipment used in your Belmont Muffler business must be approved by Belmont (see Item 8).

Belmont has the right to add additional authorized services that the franchisee is required to offer. There are no limits on Belmont's right to do so except that the investment required of a franchisee (for equipment, supplies and initial inventory) will not exceed \$5,000 per year.

Belmont also designates some services as optional for qualified franchisees. Current optional services are brake inspection, repair and replacement, tire rotation, wheel balancing, and alignment and rustproofing. To offer optional goods or services, you must be in substantial compliance with all material obligations under your Franchise Agreement. In addition, Belmont may require you to comply with other requirements (such as training, marketing, insurance) before Belmont will allow you to offer certain optional services.

As long as you meet your annual agreed sales quotas (see Item 12), Belmont will not restrict you from soliciting any customers, no matter who they are or where they are located. If you do not meet your annual sales quota, Belmont may deny you the right to receive any further fleet business referrals from Belmont and may either keep the fleet business referrals for itself or give them to another franchisee. Failure to meet your annual sales quota is a default under your Franchise Agreement and grounds for termination of your franchise (see Item 17).

Item 17

RENEWAL, TERMINATION, TRANSFER
AND DISPUTE RESOLUTION

SUMMARIZE THE PROVISIONS OF THE FRANCHISE AND OTHER AGREEMENTS DEALING WITH TERMINATION, RENEWAL, TRANSFER, DISPUTE RESOLUTION AND OTHER IMPORTANT ASPECTS OF THE FRANCHISE RELATIONSHIP.

Item 17 Instructions:

- i. Begin Item 17 disclosure with the following statement:

This table lists certain important provisions of the franchise and related agreements. You should read these provisions in the agreements attached to this offering circular.
- ii. Respond in tabular form. Refer to the section of the agreement which covers each subject.
- iii. Use a separate table for any other significant franchise-related

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agreement. If a provision in any other agreement affects the provisions of the franchise or franchise-related agreements disclosed in this Item (for example, the term of the franchise will be equal to the term of the lease), disclose that provision in the applicable category in the table.

iv. The table should contain a "summary" column to summarize briefly the disclosed provision. The summary is intended to provide a concise overview of the provision in no more than a few words or a sentence. Do not specify in detail all matters covered by a provision.

v. The table should respond to each category listed below. Do not change the names of the categories. List all contractual provisions relevant to each category in the table. If the response to any category is that the agreement does not contain the relevant provision, the table should so state. If the agreement is silent concerning a category but the franchisor unilaterally offers to provide certain benefits or protections to franchisees as a matter of policy, a footnote should describe this policy and state whether the policy is subject to change. The categories are:

- a. Length of the term of the franchise
- b. Renewal or extension of the term
- c. Requirements for franchisee to renew or extend
- d. Termination by franchisee
- e. Termination by franchisor without cause
- f. Termination by franchisor with "cause"
- g. "Cause" defined - curable defaults
- h. "Cause" defined - defaults which cannot be cured
- i. Franchisee's obligations on termination/non-renewal
- j. Assignment of contract by franchisor
- k. "Transfer" by franchisee - denied
- l. Franchisor approval of transfer by franchisee
- m. Conditions for franchisor approval of transfer
- n. Franchisor's right of first refusal to acquire franchisee's business
- o. Franchisor's option to purchase franchisee's business
- p. Death or disability of franchisee
- q. Non-competition covenants during the term of the franchise
- r. Non-competition covenants after the franchise is terminated or expires
- s. Modification of the agreement
- t. Integration/merger clause
- u. Dispute resolution by arbitration or mediation
- v. Choice of forum
- w. Choice of law

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Sample Answer 17

This table lists important provisions of the franchise and related agreements. You should read these provisions in the agreements attached to this offering circular.

	Section in Franchise Agreement	Provision	Summary
a. Term of the franchise	Section 1 (also Section 1 of Lease, Exhibit F)	Term is equal to term - 10 years	
b. Renewal or extension of the term	Section 20		If you are in good standing you can add additional term equal to renewal term of least (10 years max.)
c. Requirements for you to renew or extend	Section 20		Sign new agreement, pay fee, remodel and sign release
d. Termination by you	None		
e. Termination by Belmont without cause	None		
f. Termination by Belmont with cause	Section 21		Belmont can terminate only if franchisee defaults
g. "Cause" defined - defaults which can be cured	Section 21B		You have 30 days to cure: non-payment of fees, sanitation problems, non-submission of reports and any other default not listed in Sec. 21A

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- h. "Cause" defined - Section 22
defaults which cannot be cured
- i. Your obligations on termination/nonrenewal Section 22
complete identification and payment of amounts due (also see r, below)
- j. Assignment of contract by Belmont Section 18
No restriction on Belmont's right to assign
- k. "Transfer" by you - Section 19A
Includes transfer of contract or assets or ownership change
- l. Belmont's approval of transfer by franchisee Section 19B
Belmont has the right to approve all transfers but will not unreasonably withhold approval
- m. Conditions for Belmont approval of transfer Section 19C
New franchisee qualifies, transfer fee is paid, purchase agreement approved, training arranged, release signed by you and current agreement signed by new franchisee (also see r, below)
- n. Belmont's right of first refusal to acquire your business Section 19D
Belmont can match any offer for the franchisee's business
- o. Belmont's option to purchase your business None, but see policy described in Note 1
- p. Your death or disability Section 19D
Franchise must be assigned by estate to approved buyer in 6

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- g. Non-competition covenants during the term of the franchise Section 11
months
No involvement in competing business anywhere in U.S.
- r. Non-competition covenants after the franchise is terminated or expires Sections 19C and 22C
No competing business for 2 years within 20 miles of another Belmont franchise (including after assignment)
- s. Modification of the agreement Section 8A
No modifications generally but Operating Manual subject to change
- t. Integration/merger clause Section 29
Only the terms of the franchise agreement are binding (subject to state law). Any other promises may not be enforceable
- u. Dispute resolution by arbitration or mediation Section 24
Except for certain claims, all disputes must be arbitrated in
- v. Choice of forum Section 27
Litigation must be in
- w. Choice of law Section 28
law applies

Note 1 - Franchisor is not obligated by the Agreement to do so, but, if the franchise is terminated, franchisor's policy is to buy back inventory at fair market value. This policy is subject to change at any time.

These states have statutes which may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise: ARKANSAS (Stat. Section 70-807), CALIFORNIA (Bus. & Prof. Code Sections 20000-20043), CONNECTICUT (Gen. Stat. Section 43-111e et seq.), DELAWARE (Code Tit.), HAWAII (Rev. Stat. Section 482E-1), ILLINOIS (Rev. Stat. Chapter 121.1.2 Part 10-1-70), INDIANA (Stat. Section 24-2-7), IOWA (Code Sections 47H.1-47H.13), MICHIGAN (Stat. Section 19.854(2)),

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MINNESOTA [Stat. Section 80C.14], MISSISSIPPI [Code Section 75-24-51], MISSOURI [Stat. Section 407.400], NEBRASKA [Rev. Stat. Section 87-401], NEW JERSEY [Stat. Section 56:10-1], SOUTH DAKOTA [Codified Laws Section 37-5A-51], VIRGINIA [Code 13.1-57-574-13.1-564], WASHINGTON [Code Section 19.100.180], WISCONSIN [Stat. Section 135.03]. These and other states may have court decisions which may supersede the Franchise Agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise.

Item 18

PUBLIC FIGURES

DISCLOSE THE FOLLOWING:

A. COMPENSATION OR OTHER BENEFIT GIVEN OR PROMISED TO A PUBLIC FIGURE ARISING FROM:

- (1) The use of the public figure in the franchise name or symbol or
- (2) The endorsement or recommendation of the franchise to prospective franchisees.

B. THE EXTENT TO WHICH THE PUBLIC FIGURE IS INVOLVED IN THE ACTUAL MANAGEMENT OR CONTROL OF THE FRANCHISOR.

C. THE TOTAL INVESTMENT OF THE PUBLIC FIGURE IN THE FRANCHISOR.

Item 18 Instructions:

- i. A "public figure" is a person whose name or physical appearance is generally known to the public in the geographic area where the franchise will be located.
- ii. Disclose the compensation paid or promised for the endorsement or use of the name of the public figure.
- iii. Describe the public figure's position and duties in the franchisor's business structure.
- iv. State the amount of the public figure's investment. Describe the extent of the amount contributed in services performed or to be performed. State the type of investment (for example, common stock, promissory note).
- v. Use sample answer 18-1 for a negative response.

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Sample Answer 18-1

Belmont does not use any public figure to promote its franchise.

Sample Answer 18-2

Belmont has paid Ralph Doister \$50,000 for the use of his name in promoting the sale of our franchise. The right expires December 31, 1992. Belmont has produced newspaper ads, a brochure and a video which feature Mr. Doister. Mr. Doister does not manage or own an interest in Belmont.

Item 19

EARNINGS CLAIMS

A. AN EARNINGS CLAIM MADE IN CONNECTION WITH AN OFFER OF A FRANCHISE MUST BE INCLUDED IN FULL IN THE OFFERING CIRCULAR AND MUST HAVE A REASONABLE BASIS AT THE TIME IT IS MADE. IF NO EARNINGS CLAIM IS MADE, ITEM 19 OF THE OFFERING CIRCULAR MUST CONTAIN THE NEGATIVE DISCLOSURE PRESCRIBED IN THE INSTRUCTION.

Item 19 Instructions:

- i. Definition: "Earnings claim" means information given to a prospective franchisee by, on behalf of or at the direction of the franchisor or its agent, from which a specific level or range of actual or potential sales, costs, income or profit from franchised or non-franchised units may be easily ascertained.

A chart, table or mathematical calculation presented to demonstrate possible results based upon a combination of variables (such as multiples of price and quantity to reflect gross sales) is an earnings claim subject to this item.

An earnings claim limited solely to the actual operating results of a specific unit being offered for sale need not comply with this item if it is given only to potential purchasers of that unit and is accompanied by the name and last known address of each owner of the unit during the prior three years.

- ii. Supplemental earnings claim: If a franchisor has made an earnings claim in accordance with this Item 19, the franchisor may deliver to a prospective franchisee a supplemental earnings claim directed to a particular location or circumstance, apart from the offering circular. The supplemental earnings claim must be in writing, explain the departure from the earnings claim in the offering circular, be

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prepared in accordance with this Item 19, and be left with the prospective franchisee.

iii. Scope of requirement: An earnings claim is not required in connection with the offer of franchises; if made, however, its presentation must conform with this Item 19. If an earnings claim is not made, then negative disclosure 19 (below) must be used.

iv. Claims regarding future performance: A statement or prediction of future performance that is prepared as a forecast or projection in accordance with the statement on standards for accountants' services on prospective financial information (or its successor) issued by the American Institute of Certified Public Accountants, Inc., is presumed to have a reasonable basis.

v. Burden of proof: The burden is upon the franchisor to show that it had a reasonable basis for its earnings claim.

[NEGATIVE DISCLOSURE 19]

REPRESENTATIONS REGARDING EARNINGS CAPABILITY

Belmont does not furnish or authorize its salespersons to furnish any oral or written information concerning the actual or potential sales, costs, income or profits of [a Belmont muffler shop]. Actual results vary from unit to unit and Belmont cannot estimate the results of any particular franchise.

B. AN EARNINGS CLAIM SHALL INCLUDE A DESCRIPTION OF ITS FACTUAL BASIS AND THE MATERIAL ASSUMPTIONS UNDERLYING ITS PREPARATION AND PRESENTATION.

Item 19B Instructions:

i. Factual Basis: The factual basis of an earnings claim includes significant matters upon which a franchisee's future results are expected to depend. This includes, for example, economic or market conditions which are basic to a franchisee's operation and encompass matters affecting, among other things, franchisee's sales, the cost of goods or services sold and operating expenses.

In the absence of an adequate operating experience of its own, a franchisor may base an earnings claim upon the results of operations of a substantially similar business of a person affiliated with the franchisor or franchisees of that person, provided that disclosure is made of any material differences in the economic or market conditions

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known to, or reasonably ascertainable by, the franchisor.

ii. Basic Disclosures: The earnings claim must state:

- (a) Material assumptions, other than matters of common knowledge, underlying the claim (see Definition iii under Item 3 for the definition of "material");
- (b) A concise summary of the basis for the claim including a statement of whether the claim is based upon actual experience of franchised units and, if so, the percentage of franchised outlets in operation for the period covered by the earnings claim that have actually attained or surpassed the stated results;
- (c) A conspicuous admonition that a new franchisee's individual financial results are likely to differ from the result stated in the earnings claim; and
- (d) A statement that substantiation of the data used in preparing the earnings claim will be made available to the prospective franchisee on reasonable request.

Item 20

LIST OF OUTLETS

A. THE NUMBER OF FRANCHISES OF A TYPE SUBSTANTIALLY SIMILAR TO THOSE OFFERED AND THE NUMBER OF FRANCHISOR OWNED OR OPERATED OUTLETS AS OF THE CLOSE OF EACH OF THE FRANCHISOR'S LAST 3 FISCAL YEARS. SEGREGATE FRANCHISES THAT ARE OPERATIONAL FROM FRANCHISES NOT YET OPERATIONAL. SEGREGATE DISCLOSURE BY STATE. TOTAL EACH CATEGORY.

B. THE NAMES OF ALL FRANCHISEES AND THE ADDRESSES AND TELEPHONE NUMBERS OF ALL OF THEIR OUTLETS. THE FRANCHISOR MAY LIMIT ITS DISCLOSURE TO ALL FRANCHISEE OUTLETS IN THE STATE, BUT IF THESE FRANCHISEE OUTLETS TOTAL FEWER THAN 100, DISCLOSE FRANCHISEE OUTLETS FROM ALL CONTIGUOUS STATES AND THEN THE NEXT CLOSEST STATE(S) UNTIL AT LEAST 100 FRANCHISEE OUTLETS ARE LISTED.

C. THE ESTIMATED NUMBER OF FRANCHISES TO BE SOLD DURING THE 1 YEAR PERIOD AFTER THE CLOSE OF THE FRANCHISOR'S MOST RECENT FISCAL YEAR.

D. THE NUMBER OF FRANCHISEE OUTLETS IN THE FOLLOWING CATEGORIES THAT, FOR THE 3-YEAR PERIOD IMMEDIATELY BEFORE THE CLOSE OF FRANCHISOR'S MOST RECENT FISCAL YEAR, HAVE:

- (1) Transferred controlling ownership;
- (2) Been cancelled or terminated by the franchisor;

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- (3) Not been renewed by the franchisor;
 (4) Been reacquired by the franchisor; or
 (5) Been reasonably known by the franchisor to have otherwise ceased to do business in the system.

E. THE NAME AND LAST KNOWN HOME ADDRESS AND TELEPHONE NUMBER OF EVERY FRANCHISEE WHO HAS HAD AN OUTLET TERMINATED, CANCELLED, NOT RENEWED, OR OTHERWISE VOLUNTARILY OR INVOLUNTARILY CEASED TO DO BUSINESS UNDER THE FRANCHISE AGREEMENT DURING THE MOST RECENTLY COMPLETED FISCAL YEAR OR WHO HAS NOT COMMUNICATED WITH THE FRANCHISOR WITHIN 10 WEEKS OF THE APPLICATION DATE.

Item 20 Instructions:

- i. Do not include a transfer when beneficial ownership of the franchise does not change.
- ii. List an outlet that is reacquired by the franchisor in that column whether or not it also fits another category.
- iii. Other than the franchisee names, addresses, and telephone numbers, disclose Item 20 information in tabular form. Use footnotes or a "remarks" column to elaborate on information in the table or to disclose caveats. Disclose the number of franchised and franchisor owned outlets sold, opened and closed. Disclose the total number of franchised and franchisor owned outlets open at the end of each year. Disclose information for each of the last 3 fiscal years.
- iv. If an outlet has been operated by more than one franchisee, disclose each transfer in the transfer column.
- v. Disclose information about franchisor owned outlets that are substantially similar to the franchised outlets. In this item "franchisor owned" outlets include outlets owned by the franchisor and by its affiliates. Use a separate table with a format similar to the format for franchised outlets. The same table may be used if the franchisor owned outlets are separated from franchised outlets.
- vi. For franchisees operating within the system disclose franchisee business addresses and telephone numbers. List outlets owned by the persons listed in Item 2 and their immediate families or by business entities owned by them as franchisor owned outlets. These outlets can be identified in the table by an asterisk.
- vii. Separate information by state. List all states for which franchisor has information responsive to this item.

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viii. When the requirement states "most recent fiscal year," the franchisor may use a more recent date if it discloses that date and uses that date for all disclosures in this item.

ix. When the requirement states "most recent fiscal year," the state may require a more recent date.

Sample Answer 20

FRANCHISED

STORE STATUS SUMMARY

FOR YEARS 1992/1991/1990

	TRANSFERS	CANCELLED OR NOT TERMINATED	REACQUIRED BY FRANCHISOR	LEFT THE SYSTEM OTHER	TOTAL FROM LEFT COLUMNS (2)	FRANCHISE OPERATING AT YEAR END
Alaska	2/1/0				2/1/0	2/0/0
Arizona						8/8/2
Arkansas				1/1/0	1/1/0	6/4/2
California						4/0/0
Colorado						1/1/1
Connecticut						5/3/1
Delaware	1/0/0				1/0/0	6/4/0
Florida						2/0/0
Georgia						2/0/0
Idaho		1/0/0	0/0/0	1/1/0	4/2/0	2/0/0
Totals	2/1/0	1/0/0	0/0/0	1/1/0	4/2/0	30/20/8

1) Note: All numbers are as of December 31 for each year.

2) The numbers in the "Total" column may exceed the number of stores affected because several events may have affected the same store. For example, the same store may have had multiple owners.

STATUS OF COMPANY OWNED STORES

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STATE	FOR YEARS 1992/1991/1990	
	STORES CLOSED DURING YEAR	STORES OPENED DURING YEAR

TOTAL STORES
OPERATING AT YEAR END

Alaska
Arizona

Arkansas
California

Colorado

Connecticut

Delaware
Florida

Gorgia

Idaho

0/0/0 0/0/0 9+0+0

Note: Belmont no longer operates company owned stores.

PROJECTED OPENINGS
AS OF DECEMBER 31, 1992

FRANCHISE AGREEMENT SIGNED BUT STORE NOT OPEN (1)
PROJECTED FRANCHISED NEW STORES IN NEXT FISCAL YEAR
COMPANY OWNED OPENINGS IN NEXT FISCAL YEAR

STATE
Alaska
Arizona

Arkansas
California

Colorado

Connecticut

Delaware
Florida

2

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Gorgia

Idaho

Totals

1
2
3
0

Note (1) As of December 31, 1992

Item 21

FINANCIAL STATEMENTS

PREPARE FINANCIAL STATEMENTS IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES. THESE FINANCIAL STATEMENTS MUST BE AUDITED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT. UNAUDITED STATEMENTS MAY BE USED FOR INTERIM PERIODS. INCLUDE THE FOLLOWING FINANCIAL STATEMENTS:

A. THE FRANCHISOR'S BALANCE SHEETS FOR THE LAST TWO FISCAL YEAR ENDS BEFORE THE APPLICATION DATE. IN ADDITION, INCLUDE STATEMENTS OF OPERATIONS, OF STOCKHOLDERS EQUITY AND OF CASH FLOWS FOR EACH OF THE FRANCHISOR'S LAST THREE FISCAL YEARS. IF THE MOST RECENT BALANCE SHEET AND STATEMENT OF OPERATIONS ARE AS OF A DATE MORE THAN 90 DAYS BEFORE THE APPLICATION DATE, THEN ALSO SUBMIT AN UNAUDITED BALANCE SHEET AND STATEMENT OF OPERATIONS AS OF A DATE WITHIN 90 DAYS OF THE APPLICATION DATE.

B. AFFILIATED COMPANY STATEMENTS. INSTEAD OF THE DISCLOSURE REQUIRED BY ITEM 21A, THE FRANCHISOR MAY INCLUDE FINANCIAL STATEMENTS OF ITS AFFILIATED COMPANY IF THE AFFILIATED COMPANY'S FINANCIAL STATEMENTS SATISFY ITEM 21A AND THE AFFILIATED COMPANY ABSOLUTELY AND UNCONDITIONALLY GUARANTEES TO ASSUME THE DUTIES AND OBLIGATIONS OF THE FRANCHISOR UNDER THE FRANCHISE AGREEMENT.

C. CONSOLIDATED AND SEPARATE STATEMENTS:

(1) When a franchisor owns a direct or beneficial, controlling financial interest in another corporation, its financial statements should reflect the financial condition of the franchisor and its subsidiaries.

(2) If the applicant is a subfranchisor include separate financial statements for the franchisor and subfranchisor related entity.

(3) Prepare consolidated and separate financial statements in accordance with generally accepted accounting principles.

Item 21 instructions

1. States may require financial statements additional to those listed in this item.

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ii. A company controlling 80% or more of a franchisor may be required to include its financial statements.

iii. Present required financials in a format of columns which compare at least 2 fiscal years.

iv. In Item 21A, the required financial statements for a franchisor with a calendar fiscal year end and a July 15, 1989 application filing date are:

(a) Unaudited balance sheet as of either April 30, May 31 or June 30, 1989 with an unaudited income statement for the period from January 1, 1989 to the date of the balance sheet.

(b) Balance sheets, statements of operations, of stockholders equity and of cash flow. The balance sheets should be audited and as of December 31, 1987 and 1988. The remaining statements should be audited and should be for periods ending December 31, 1986, 1987 and 1988; and

(c) If the franchisor has never had an audit, it need not supply the financial statement required by (b) if it supplies either an audit as of its last fiscal year end or the statements required by (a) in an audited form.

v. In the Item 21B response, the affiliate's guarantee need cover only the franchisor's obligations to the franchisee. The guarantee need not extend to third parties. A sample guarantee is on page Exhibit .

vi. In the Item 21B response the filing state may permit a surety bond instead of the parent company's guarantee.

vii. Disclose the existence of a guarantee.

Item 22

CONTRACTS

ATTACH A COPY OF ALL AGREEMENTS PROPOSED FOR USE OR IN USE IN THIS STATE REGARDING THE OFFERING OF A FRANCHISE, INCLUDING THE FRANCHISE AGREEMENT, LEASES, OPTIONS AND PURCHASE AGREEMENTS.

Item 22 Instructions:

i. Copies of agreements attached to the offering circular under Item 22 are part of the offering circular. Each offering circular delivered to a prospective franchisee must include copies of all agreements to

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be offered.

ii. The franchisor may cross reference Item 10 for financing agreements.

Item 23

RECEIPT

THE LAST PAGE OF THE OFFERING CIRCULAR IS A DETACHABLE DOCUMENT ACKNOWLEDGING RECEIPT OF THE OFFERING CIRCULAR BY THE PROSPECTIVE FRANCHISEE. IT MUST CONTAIN THE FOLLOWING STATEMENT IN BOLDFACE TYPE:

THIS OFFERING CIRCULAR SUMMARIZES CERTAIN PROVISIONS OF THE FRANCHISE AGREEMENT AND OTHER INFORMATION IN PLAIN LANGUAGE. READ THIS OFFERING CIRCULAR AND ALL AGREEMENTS CAREFULLY.

IF OFFERS YOU A FRANCHISE, MUST PROVIDE THIS OFFERING CIRCULAR TO YOU BY THE EARLIEST OF:

- (1) The first personal meeting to discuss our franchise; or
- (2) Ten business days before the signing of a binding agreement; or
- (3) Ten business days before a payment to .

YOU MUST ALSO RECEIVE A FRANCHISE AGREEMENT CONTAINING ALL MATERIAL TERMS AT LEAST FIVE BUSINESS DAYS BEFORE YOU SIGN A FRANCHISE AGREEMENT.

IF DOES NOT DELIVER THIS OFFERING CIRCULAR ON TIME OR IF IT CONTAINS A FALSE OR MISLEADING STATEMENT, OR A MATERIAL OMISSION, A VIOLATION OF FEDERAL AND STATE LAW MAY HAVE OCCURRED AND SHOULD BE REPORTED TO THE FEDERAL TRADE COMMISSION, WASHINGTON, D.C. 20580 AND THE ILLINOIS ATTORNEY GENERAL OFFICE, 500 SOUTH SECOND STREET, SPRINGFIELD, ILLINOIS 62706. (Any additional state disclosure time or required statutory language.)

Item 23 Instructions:

i. Place the name of the franchisor in the blank.

ii. Make two copies of the Receipt: one for retention by the franchisee and one by the franchisor.

iii. Disclose the name, principal business address and telephone number of the subfranchisor or franchise broker offering the franchise in this State.

iv. List the title of all attached exhibits.

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v. Effective Date: (Leave blank until notified of effectiveness by State regulatory authority.)

vi. The name and address of the franchisor's registered agent authorized to receive service of process if not disclosed in Item 1.

Sample Answer 23

RECEIPT

THIS OFFERING CIRCULAR SUMMARIZES PROVISIONS OF THE FRANCHISE AGREEMENT AND OTHER INFORMATION IN PLAIN LANGUAGE. READ THIS OFFERING CIRCULAR AND ALL AGREEMENTS CAREFULLY.

IF BELMONT OFFERS YOU A FRANCHISE, BELMONT MUST PROVIDE THIS OFFERING CIRCULAR TO YOU BY THE EARLIEST OF:

- (1) THE FIRST PERSONAL MEETING TO DISCUSS OUR FRANCHISE; OR
- (2) TEN BUSINESS DAYS BEFORE SIGNING OF A BINDING AGREEMENT; OR
- (3) TEN BUSINESS DAYS BEFORE ANY PAYMENT TO BELMONT.

YOU MUST ALSO RECEIVE A FRANCHISE AGREEMENT CONTAINING ALL MATERIAL TERMS AT LEAST FIVE BUSINESS DAYS BEFORE YOU SIGN ANY FRANCHISE AGREEMENT.

IF BELMONT DOES NOT DELIVER THIS OFFERING CIRCULAR ON TIME OR IF IT CONTAINS A FALSE OR MISLEADING STATEMENT, OR A MATERIAL OMISSION, A VIOLATION OF FEDERAL AND STATE LAW MAY HAVE OCCURRED AND SHOULD BE REPORTED TO THE FEDERAL TRADE COMMISSION, WASHINGTON, D.C. 20580 AND (STATE AGENCY).

Belmont authorizes Legal Process Corp at 448 West Washington Avenue, City, State to receive service of process for Belmont. I have received a Uniform Franchise Offering Circular dated _____, This offering circular included the following Exhibits:

- A. License Agreement
- B. Equipment Lease
- C. Lease for Premises
- D. Loan Agreement

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Date Franchisee

:ufoc

Cover Page--The outside front cover of the offering circular shall contain the following information:

- 1: The title in boldface type--franchise--offering--circular--for prospective franchisees required by the State of (name of state):
- 2: The name--type--of business organization principal business address and telephone number of the franchisor:
- 3: If different than in 2--above, the name--principal business address and telephone number of the franchisor--for marketing its products--or--services--and under which the franchisee will conduct its business--(place in upper left hand corner of the cover page):
- 4: A sample of the primary business trademark, logo, type, trade name, or commercial label or symbol used by the franchisor--for marketing its products--or--services--and under which the franchisee will conduct its business--(place in upper left hand corner of the cover page):
- 5: A brief description of the franchise to be offered:
- 6: A summary of items 5 and 3--of the offering circular--to wit--franchise--initial investment--franchise fee--or--other payment--and franchisee's initial investment--respectively:
- 7: Effective Date--(Leave blank until notified of effectiveness by state regulatory authority):
- 8: The following statement in boldface type:

THIS OFFERING CIRCULAR IS PROVIDED FOR YOUR OWN PROTECTION AND CONTAINS A SUMMARY ONLY OF CERTAIN MATERIAL PROVISIONS OF THE FRANCHISE AGREEMENT. THIS OFFERING CIRCULAR AND ALL CONTRACTS AND AGREEMENTS SHOULD BE READ CAREFULLY IN THEIR ENTIRETY FOR AN UNDERSTANDING OF ALL RIGHTS AND OBLIGATIONS OF BOTH THE FRANCHISOR AND THE FRANCHISEE.

A FEDERAL TRADE COMMISSION RULE MAKES IT UNLAWFUL TO OPPER--OR SELL ANY FRANCHISE WITHOUT FIRST PROVIDING THIS OFFERING CIRCULAR TO THE PROSPECTIVE FRANCHISEE AT THE EARLIER OF (1) THE FIRST PERSONAL MEETING, OR (2) TEN BUSINESS DAYS BEFORE THE SIGNING OF ANY FRANCHISE OR RELATED AGREEMENT, OR (3) TEN BUSINESS DAYS BEFORE ANY PAYMENT. THE PROSPECTIVE FRANCHISEE MUST ALSO RECEIVE A FRANCHISE AGREEMENT CONTAINING ALL MATERIAL TERMS AT LEAST FIVE BUSINESS DAYS PRIOR TO THE SIGNING OF THE FRANCHISE AGREEMENT.

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comparable allegations. If so, set forth the name of the person the court of other forum, nature and current status of any such pending action. Pranchiser may include a summary opinion of counsel as to any such action but only if a consent to use of such summary opinion is included as part of this offering circular.

B- Has, during the 10-year period immediately preceding the date of the offering circular, been convicted of a felony or pleaded not guilty to a felony charge or been held liable in a civil action by final judgment or been the subject of a material complaint or other legal proceeding in such felony or civil action, franchise law, fraud, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices, misappropriation of property or comparable allegations. If so, set forth the name of the person convicted, the court and date of conviction or person against whom judgment was entered, penalty or damages assessed, in connection therewith, and for terms of settlement.

C- Is subject to any currently effective injunctive or restrictive order or decree relating to the franchise or under any Federal State or Canadian transfer, securities, antitrust, trade regulation or trade practice law as a result of a concluded or pending action or proceeding brought by a public agency, if so, set forth the name of the person so subject, the public agency and court, a summary of the allegations or facts found by the agency or court, and the date, nature, terms and conditions of the order or decree.

4- BANKRUPTCY: State whether the franchisor or any predecessor officer or general partner of the franchisor has during the 15-year period immediately preceding the date of the offering circular been adjudged bankrupt or reorganized due to insolvency or was a principal officer of any company or a general partner in any partnership that was adjudged bankrupt or reorganized due to insolvency during or within the year after the period that such officer or general partner or the franchisor held such position in such company or partnership, or whether any such bankruptcy or reorganization proceeding has been commenced. If so, set forth the name of the person or company adjudged bankrupt or reorganized or named in any such proceeding and the date thereof and any material facts or circumstances.

5- PRANCHISER: If so, set forth the name of the person or company in detail the following:

A- The initial franchise fee or other initial payment for the

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franchisee if any, charged upon the signing of the franchise agreement, and whether payable in lump sum or installments. Set forth the manner in which the franchisor will use or apply such franchise fee or initial payment. State whether such fee or payment is refundable and if so, under what conditions.

B- If an identical initial franchise fee or other initial payment is not charged in connection with each franchise agreement, state the method or formula by which such fee or payment is determined.

6- OTHER: Describe in detail other recurring or related fees or payments including but not limited to royalties, service fees, training fees, lease payments and advertising fees and charges. If the franchisor is required to pay the franchisor or persons affiliated with the franchisor or when the franchisor or such affiliated person imposes or collects in whole or in part on behalf of a third party, include if applicable, the formula used to compute such fees and payments. State whether any such fee or payment is refundable and if so, under what conditions.

7- FRANCHISER: If so, set forth the name of the person or company in detail the following: A- Real property: whether or not financed by contract, installment purchase or lease. If neither example nor described by a low-high range, describe the various requirements, location, property location and building size which make it a low-high expenditure, whether estimable or not, described by a low-high range.

B- Equipment: whether or not financed by contract, installment purchase or lease. If neither example nor described by a low-high range, describe the various requirements, location, property location and building size which make it a low-high expenditure, whether estimable or not, described by a low-high range.

C- Inventory: required to commence operation.

D- Security: deposit or other prepaid expenses and working capital required to commence operation.

E- Any other payments: include the franchisee is to be required to make in order to commence operations.

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NOTE:--The following statement shall be inserted in the offering circular at this point:

There are no other direct or indirect payments in connection with the purchase of the franchise.

8- OBLIGATIONS--OF--FRANCHISEE--TO--PURCHASE--OR--LEASE--FROM--DESIGNATED SOURCES:--State any obligations of the franchisee or subfranchisor whether arising by terms of the franchise agreement or otherwise, or practice to purchase or lease from the franchisor or his designer goods, services, supplies, fixtures, equipment, inventory, or real estate relating to the establishment or operation of the franchise business;--Regarding such obligations, state the following:

A- The goods, services, supplies, fixtures, equipment, inventory, or real estate required to be purchased or leased from the franchisor or his designer.

B- Whether and if so, the precise basis by which the franchisor or parent or persons affiliated with the franchisor will or may derive income based on or as a result of any such required purchases or leases.

C- To the extent known or ascertainable by the franchisor, the magnitude of such required purchases and leases in relation to all purchases and leases by the franchisor of goods and services which the franchisee will make or enter into in the establishment and in the operation of the franchise business.

9- OBLIGATIONS OF FRANCHISEE TO PURCHASE OR LEASE IN ACCORDANCE WITH SPECIFICATIONS OR FROM APPROVED SUPPLIERS:--State any obligations of the franchisee or subfranchisor whether arising by terms of the franchise agreement or otherwise, or practice to purchase or lease in accordance with specifications established by the franchisor or from suppliers approved by the franchisor or his designer, or the franchisee's equipment, inventory, or real estate relating to the establishment or operation of the franchise business;--Regarding such obligations, state the following:

A- The goods, services, supplies, fixtures, equipment, inventory, or real estate required to be purchased or leased in accordance with specifications or from approved suppliers approved by the franchisor.

B- The manner in which the franchisee, lessee, and modifies specifications or leases approved to suppliers.

C- Whether and if so, the magnitude of goods and services the franchisor or persons affiliated with the franchisor are approved

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suppliers or the only approved suppliers:

B- Whether and if so, the precise basis by which the franchisor or its parent or persons affiliated with the franchisor may derive income from purchases made from it or from other approved suppliers if this is the case.

10- FINANCING--ARRANGEMENTS:--State the terms and conditions of any financing arrangements offered directly or indirectly by the franchisor, its agent or affiliated company, including:

A- A description of any waiver of defenses or similar provisions in any note, contract or other instrument to be executed by the franchisee or subfranchisor.

B- A statement of any past or present practice or of any intent of the franchisor to sell, assign or discount to a third party, in whole or in part, any note, contract or other instrument executed by the franchisee or subfranchisor.

C- A description of any payments received by the franchisor from any person for the placement of financing with such person.

11- OBLIGATIONS--OF--THE--FRANCHISOR--OTHER--SUPERVISION--OR--ASSISTANCE--OR--SERVICES:--Where applicable, describe the following:

A- The obligations to be met by the franchisor prior to the opening of the franchise business, relating by section and paragraph to the provisions of the franchise or related agreement relating to performance.

B- Other supervisory assistance or services to be provided by the franchisor prior to the opening of the franchise business, although the franchisor is not bound by the franchise or any related agreement to provide the same. As part of this disclosure, the franchisor must disclose that he is not so bound.

C- The obligations to be met by the franchisor during the operation of the franchise business, relating by section and paragraph to the assistance to be provided by the franchisor or his agent or other person or persons during the operation of the franchise or related agreement relating to performance.

B- Other supervisory assistance or services to be provided by the franchisor during the operation of the franchise business, although the franchisor is not bound by the franchise or any related agreement to provide the same. As part of this disclosure, the franchisor must disclose that he is not so bound.

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B- The methods used by the franchisor to select the location for the franchisee's business.

P- The typical length of time between the signing of the franchise agreement or the first payment of any consideration for the franchise and the opening of the franchisee's business.

G- The training program of the franchisor, including:

(1) The location, duration and content of the training program;

(2) When the training program is to be conducted;

(3) The experience that the instructors have had with the franchisor;

(4) Any charges to be made to the franchisee and the extent to which the franchisee will be responsible for travel and living expenses of the person(s) who enroll in the training program;

(5) If the training program is not mandatory, the percentage of new franchisees that enroll in the training program during the 12 months immediately preceding the date of the offering circular; and

(6) Whether any additional training programs and/or refresher courses are available to the franchisee and whether the franchisee will be required to attend the same.

12. EXCLUSIVE AREA OR TERRITORY. Describe any exclusive area or territory granted the franchisee and with respect to such area or territory state whether:

A- The franchisor has established or may establish a company-owned outlet using the franchisor's trade name or trademark;

B- The franchisor has established or may establish a company-owned outlet using the franchisor's trade name or trademark;

C- The franchisor or its parent or affiliate has established or may establish other franchises or company-owned outlets selling or leasing similar products or services under a different trade name or trademark;

D- Continuation of the franchisee's area or territorial exclusivity is dependent upon achievement of a certain sales volume, market penetration or other contingency and under what circumstances the

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franchisee's area or territory may be altered.

13. TRADEMARKS. Describe TRADE NAMES, LOGOTYPES AND COMMERCIAL SYMBOLS. Describe any trademarks, service marks, trade names, logos or other commercial symbols to be licensed to the franchisee including the following:

A- Whether the trademark, service mark, trade name, logo type or other commercial symbol is registered with the United States Patent Office and if so for each such registration state the registration date and number and whether or not the registration is on the principal or supplemental register;

B- Whether the trademark, service mark, trade name, logo type and other commercial symbol are registered in this state or in any state in which the franchise business is to be located and the dates of such registrations;

C- A description of any presently effective determinations of the Patent Office, the trademark administrator of this state or any country, any pending reference, opposition or cancellation proceeding and any pending material investigation involving such trademarks, service marks, trade names, logos or other commercial symbols and when the relevant determinations, decisions or the state in which the franchise business is to be located;

D- A description of any agreements, orally or in effect, which significantly limit the rights of the franchisor to use or license the use of such trademarks, service marks, trade names, logos or other commercial symbols in any manner material to the franchise;

E- Whether the franchisor is obligated by the franchise agreement or otherwise to protect any or all rights which the franchisor has to use such trademarks, service marks, trade names, logos or other commercial symbols and to protect the franchisee against claims of infringement or unfair competition with respect to the same;

F- Whether there are any intangible assets actually known to the franchisor which could materially affect the franchisee's use of such trademarks, service marks, trade names, logos or other commercial symbols in the state or states in which the franchise business is to be located;

14. PATENTS AND COPYRIGHTS. State the franchisor owns any rights in or to any patents or copyrights which are material to the franchisee.

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describe such patents and copyrights, their relationship to the franchise and the terms and conditions under which the franchisee may use them, including their duration, whether the franchisor can and intends to renew any copyrights, and to the extent relevant, the information required by Section 13 above with respect to such patents and copyrights.

15. OBLIGATION OF THE FRANCHISEE TO PARTICIPATE IN THE ACTUAL OPERATION OF THE FRANCHISE BUSINESS. State fully the obligation of the franchisee or the subfranchisor, whether arising by terms of the franchise agreement or other device or practice to participate personally in the direct operation of the franchise business or whether the franchisor recommends participation in the same.

16. RESTRICTIONS ON GOODS AND SERVICES OFFERED BY FRANCHISEE. State any restriction or condition imposed by the franchisor, whether by terms of the franchise agreement or by other device or practice of the franchisor, whereby the franchisee is restricted as to the goods or services he may offer for sale or limited in the customers to whom he may sell such goods or services.

17. RENEWAL, TERMINATION, REPURCHASE, MODIFICATION AND ASSIGNMENT OF THE FRANCHISE AGREEMENT AND RELATED INFORMATION. With respect to the franchise and any related agreements, state the following:

A. The term and whether such term is affected by any agreement (including leases or subleases) other than the one from which such term arises.

B. The conditions under which the franchisee may renew or extend.

C. The conditions under which the franchisor may refuse to renew or extend.

D. The conditions under which the franchisee may terminate.

E. The conditions under which the franchisor may terminate.

F. The obligations (including leases or sublease obligations) of the franchisee in termination of the franchise by the franchisor and the obligations of the franchisor in terminating a lease or sublease contract with a third party. If the franchisee, by the franchise or the expansion of the franchise.

G. The franchisee's interest upon termination or refusal to renew or extend the franchise by the franchisor or by the franchisee.

H. The conditions under which the franchisor may repurchase, whether

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by right of first refusal or at the option of the franchisee. If the franchisor has the option to repurchase the franchise, state whether there will be an independent appraisal of the franchise, whether the repurchase price will be determined by a predetermined formula and whether there will be a recognition of goodwill or other intangibles associated therewith in the repurchase price to be given the franchisee.

I. The conditions under which the franchisee or its owners may sell or assign all or an interest in the ownership of the franchise or of the franchisee or in the assets of the franchise business.

J. The conditions under which the franchisor may sell or assign in whole or in part.

K. The conditions under which the franchisee may modify.

L. The conditions under which the franchisor may modify.

M. The rights of the franchisee, heirs or personal representative upon the death or incapacity of the franchisee.

N. The provisions of any covenant not to compete.

18. ARRANGEMENTS WITH PUBLIC PERSONS. State the following:

A. Any compensation or other benefit given or promised to a public figure arising in whole or in part from:

(1) the use of the public figure in the name or symbol of the franchisee or

(2) the endorsement or recommendation of the franchisee by the public figure in advertisements.

B. Any right the franchisee may have to use the name of a public figure in his promotional efforts or advertising and any charges to be made to the franchisee in connection with such usage.

C. The extent to which such public figure is involved in the secret management or control of the franchisor.

D. The total investment of the public figure in the franchise operation.

19. REPRESENTATIONS REGARDING EARNINGS CAPABILITY.

A. Any earnings claims made in connection with the offer of a franchise must be included in full in the offering circular and

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NOTICE OF PROPOSED AMENDMENTS

must have a reasonable basis at the time it is made. If no earnings claim is made in accordance with the guidelines for the Preparation of the Uniform Franchise Offering Circular (1997) with no later amendments or editorially item to of the offering circular shall contain the following negative disclosure:

B- The franchisor does not elect to make any representations regarding earnings capability to prospective franchisees. Any earnings claim shall include a description of its factual basis and the material assumptions underlying its preparation and presentation.

20- INFORMATION---REGARDING---FRANCHISES---OF---THE---FRANCHISOR---State---the following as of the close of the franchisor's most recent fiscal year:

A- The total number of franchisees exclusive of company-owned or operated distribution outlets of a type substantially similar to those offered herein and of that number the number of such franchisees which were operational as of the date of this offering circular.

B- The number of franchises in this state exclusive of company-owned or operated distribution outlets of a type substantially similar to those offered herein and of that number the number of such franchisees which were operational as of the date of this offering circular.

C- The total number of franchisees substantially similar to those offered herein for which a business is not yet operational although a franchise agreement has been signed.

B- The number of franchisees in this state substantially similar to those offered herein for which a business is not yet operational although a franchise agreement has been signed.

B- The names, addresses and telephone numbers of all franchisees under a franchise agreement with the franchisor or its subfranchisor which are located in the state where the proposed franchise is to be located. To the extent that there are fewer than 10 such franchisees located in said state, the list shall include at least the 10 such franchisees which are most proximate to the location of the proposed franchise and if fewer than 10 such franchisees exist the list shall identify all such franchisees and include a statement to that effect.

In lieu of the above disclosure, the franchisor may attach to the offering circular a list of the names, addresses and telephone numbers of all its franchisees under franchise agreements with the franchisor or its subfranchisor.

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P- An estimate of the total number of franchisees to be sold or granted during the one year period following the date of the offering circular.

S- An estimate of the number of franchisees to be sold or granted in this state during the one year period following the date of the offering circular.

H- State the number of franchisees in each of the following categories which within the one year period immediately preceding the close of franchisor's most recent fiscal year have:

(1) been cancelled or terminated by the franchisor for:

(a) failure to comply with quality control standards; and

(b) other reasons;

(2) not been renewed by the franchisor;

(3) been reacquired through purchase by the franchisor;

(4) been otherwise reacquired by the franchisor;

21- FINANCIAL STATEMENTS---Financial statements shall be prepared in accordance with generally accepted accounting principles. Such financial statements shall be audited by an independent certified public accountant or by a partner in the franchise law office of the franchisor, an independent public accountant. Unaudited statements may be used for interim periods.

A- The financial statements required to be filed by a franchisor shall include a balance sheet as of a date within 90 days prior to the date of the application and profit and loss statements for each of the three fiscal years preceding the date of the application and for the period if any between the date of the application and the date of the filing of the application. However, the applicable period need not end with a day prior to the date of the application if the date of the application is not audited by a certified public accountant. The balance sheet and profit and loss statements shall be audited by a certified public accountant or by a partner in the franchise law office of the franchisor, an independent public accountant. Unaudited statements may be used for interim periods.

B- Controlling company statements. Where state law permits, a franchisor

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of the disclosure required by item 21-A-7 complete financial statements of a company controlling the franchisor may be filed but only if the unaudited financial statements of the franchisor are filed and the controlling company, associate and unconditionally guarantee to assume the duties and obligations of the franchisor under the franchise agreement should the franchisor become unable to perform its duties and obligations.

C. Consolidated and separate statements:

(1) Where a franchisor owns directly or beneficially a controlling financial interest in any other corporation the financial statements required to be filed should normally reflect on a consolidated basis the financial condition of the franchisor and each of its subsidiaries.

(2) A separate financial statement with normally required for each subsidiary franchisor or subfranchisor related entity.

(3) A company controlling 00% or more of a franchisor shall normally be required to file its financial statements.

(4) Consolidated and separate financial statements shall be prepared in accordance with generally accepted accounting principles.

22- CONTRACTS--Attach a copy of all franchise and other contracts or agreements proposed for use or in the franchise including without limitation all lease agreements, option agreements and purchase agreements.

23- ACKNOWLEDGEMENT OF RECEIPT BY PROSPECTIVE FRANCHISEE--The last page of each offering circular shall contain a detachable document acknowledging receipt of the offering circular by the prospective franchisee.

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(Source: Amended at 19 Ill. Reg. _____, effective _____)

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Section 200.APPENDIX B Franchise Broker Registration Forms

Section 200.ILLUSTRATION A Franchise Broker Registration Application Page

File No. _____

(Insert file number of previous filings of Applicant, if any)

FEE: _____

(To be enclosed by Applicant at time application is initially filed)

Date of _____

Application: _____

Application-For-(Check-only-one):

----Registration-of-Franchise-Broker

----Registration-renewal-statement-or-annual-report

Amendment-number-----to-application

----Post-effective

Pitted-under-Section-----

----Pre-effective

Dated-----

1. Name of Franchise Broker. _____

Name under which the Franchise Broker is doing or intends to do business.

2. Franchisor Broker's principal business address.

Name and address of Franchisor Broker's agent in the State of Illinois authorized to receive process.

Illinois Attorney General, 500 South Second Street, Springfield, Illinois 62706

3. Name, address and telephone number of person to whom communications regarding this application should be directed.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

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Section 200.APPENDIX B Franchise Broker Registration Forms

Section 200.ILLUSTRATION C Franchise Broker Surety Bond

We, _____ (broker name) _____, a corporation, with principal offices at _____ (broker address) _____, as principal, and _____ (name of Surety) _____, with principal offices at _____ (Surety address) _____, a Surety Company incorporated under the laws of the State of _____ (identify state) _____ and authorized to conduct business in the State of Illinois as Surety, are bound to the Illinois Attorney General, Obligor in the sum of _____ to be paid to the Obligor or its legal representatives, successors, or assigns, for which payment we bind ourselves and our legal representatives and successors, jointly and severally.

WHEREAS, the above-named principal has made application to the Illinois Attorney General for registration as a franchise broker under the Illinois Franchise Disclosure Act, Ill. Rev. Stat. 1981, ch. 121 1/2, par. 716.1 and is required pursuant to the Rules and Regulations promulgated under the Illinois Franchise Disclosure Act to post bond in the amount of _____.

WHEREAS, the Obligor intends to assign this bond to the respective purchaser(s) of the aforementioned franchise upon sale of the aforementioned franchise(s) to said purchaser(s).

THEREFORE, the condition of this obligation is that the principal:

1. Comply with the Illinois Franchise Disclosure Act and Regulations promulgated thereunder; and
2. Pay all damages suffered by any person by reason of the Broker's violation of said Illinois Franchise Disclosure Act or any Rules or Regulations promulgated thereunder or any acts, rules, regulations, or orders amendatory thereof, and or supplementation thereto, or hereafter enacted, or by reason of any misrepresentation, deceit, fraud or omission to state a material fact necessary in order to make any statement made, in the light of the circumstances under which such statement was made, not misleading.

This bond and obligation hereunder shall be deemed to run continuously and shall remain in full force and effect for four full years after the date of execution shown below.

In the event that any action or proceeding is initiated with respect to this bond, the parties agree that the venue thereof shall be the County in which the offer or sale of the franchise occurred.

IN WITNESS WHEREOF, Principal and Surety have executed this instrument at _____ this _____ day of _____, 19 _____.

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NOTICE OF PROPOSED AMENDMENTS

Principal

Surety

(Source: Amended at 19 Ill. Reg. _____, effective _____)

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Section 200.APPENDIX B Franchise Broker Registration Forms

Section 200.ILLUSTRATION D BROKER GUARANTY OF PERFORMANCE

For value received _____ (name of guarantor) _____, located at _____ (address) _____, absolutely and unconditionally guarantees the performance by broker, _____ (name of broker) _____, of all obligations under the Illinois Franchise Disclosure Act and Rules, incurred in the sale of franchises in the state of _____ and any underlying contractual responsibilities resulting from the sale of franchises occurring after this date with franchisees under the jurisdiction of the Illinois Franchise Disclosure Act, as the same have been or may hereafter be amended, modified, renewed or extended from time to time. This guaranty shall continue in force until all such obligations of broker shall have been satisfied or until such liability of broker to such franchisees has been completely discharged, whichever first occurs. Guarantor shall not be discharged from liability hereunder as long as any such claim by a franchisee against broker remains outstanding. Notice of acceptance is waived. Notice of default on the part of broker is not waived. This guaranty shall be binding upon guarantor, its successors and assigns.

In witness whereof, guarantor has, by a duly authorized officer, executed this guarantee at _____, this _____ day of _____, 19 _____.

ATTEST:

Guarantor

By:

Title:

(Source: Added at 19 Ill. Reg. _____, effective _____)

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Section 200. APPENDIX C Escrow Forms

Section 200. ILLUSTRATION A Escrow Agreement

Agreement, made this _____ day of _____, 19____, by _____ (name of franchisor), a _____ (type of business entity) organized under the laws of the State of _____ (hereinafter referred to as "Franchisor"), and _____ (hereinafter referred to as "BANK"), as Escrowee for the franchisees of Franchisor;

WHEREAS, Franchisor is desirous of establishing franchises in the State of Illinois; and

WHEREAS, it is in the discretion of the Illinois Attorney General as administrator of the Illinois Franchise Disclosure Act, to require an escrow of the franchise fees; and

WHEREAS, in order to conform to the procedures for arranging an escrow account, Franchisor desires to enter into an escrow agreement with BANK, pursuant to which initial franchise fees are to be held in escrow until Franchisor has met its initial obligations to its franchisees.

NOW THEREFORE, with the foregoing recitals hereinafter incorporated by reference and made a part hereof, it is agreed as follows:

1. Franchisor shall deposit with BANK initial franchise fees received from franchisees that are required to be escrowed under the order of the Administrator, but BANK shall not be responsible for insuring that any part or all moneys received by Franchisor from each or any one franchisee are deposited with BANK.

2. Franchisor will supply BANK with the name and address of each franchisee, together with the amount of the deposit which represents moneys paid by each franchisee and BANK will maintain records containing the same information.

3. All moneys received by BANK from Franchisor shall be held by BANK as escrowee for the exclusive purpose herein described and will be placed in a single segregated account designated substantially as follows:

(Name and address of Bank) _____, AS ESCROWEE FOR FRANCHISEES OF _____ (Name of Franchisor) _____ (hereinafter referred to as "Escrow Account.")

4. BANK shall accept such funds as Franchisor shall deliver to BANK, as escrowee, and BANK shall acknowledge the receipt of funds from Franchisor; however, BANK shall not be responsible for the accuracy of the information provided to it by Franchisor.

5. Any funds deposited hereunder in the Escrow Account shall be invested and kept invested by BANK, at the option of the Franchisor, in instruments of its choosing, until they are to be disbursed as provided in paragraph 6 hereof. All interest received and any increment thereon shall be added to the funds so deposited in the Escrow Account and shall be distributed as provided in paragraph 6.

6. BANK shall pay out funds, plus interest, if any, from the Escrow Account upon the occurrence of one of the following conditions:

(a) Upon receipt of a letter from an officer of Franchisor

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directing BANK to pay out such funds to Franchisor, accompanied by a written notice from the Administrator stating that he takes no exception (hereinafter referred to as "No Exception Notice") to the release, BANK shall pay part or all of the moneys held in escrow for the benefit of a specified franchisee, plus interest, if any, to Franchisor.

(b) Upon written notice from the Administrator BANK shall return part or all of the deposited franchise fee and other funds, plus interest, if any, to a specified franchisee.

(c) BANK shall pay funds into court or disburse or deliver them in accordance with any final order of any court of competent jurisdiction.

BANK shall not be personally liable for any act taken or omitted by it in good faith and in the exercise of its own best judgment. BANK shall also be fully protected in relying upon any written notice, demand, certificate or document which it in good faith believes to be genuine.

7. BANK is authorized, in its sole discretion, to disregard any and all notices or instructions given by any of the undersigned or by any other person, firm or corporation, except only such notices or instructions by the Administrator as are hereinafter provided for and orders of process of any court entered or issued with or without jurisdiction. If any property subject hereto is at any time attached, garnished, or levied upon under any court order or in case the payment, assignment, transfer, conveyance or delivery of any such property shall be stayed or enjoined by any court order, or in case of any court order affecting such property or any part thereof, then and in any of such events BANK is authorized, in its sole discretion, to rely upon and comply with any such order, writ, judgment or decree which it is advised by legal counsel of its own choosing is binding upon it; if it complies with any such order, writ, judgment or decree, it shall not be liable to any of the parties hereto or to any other person, firm or corporation by reason of such compliance even though such order, writ, judgment or decree may be subsequently reversed, modified, annulled, set aside or vacated.

8. Written consent of BANK to act in the capacity of escrowee shall be manifested upon the duly authorized execution of this Agreement. The Administrator may, at any time, inspect the records of BANK, insofar as they relate to this Escrow Agreement. At the Administrator's discretion, statements indicating status of the escrow shall be furnished by BANK to the Administrator. An executed duplicate original of this Agreement shall be filed with the Administrator at Illinois Attorney General, Franchise Division, 500 South Second Street, Springfield, Illinois 62706.

9. BANK shall be paid by Franchisor for any expenses incurred by it and reasonable compensation for its services hereunder. Funds held by BANK pursuant to this Agreement shall not be subject to any liens or charges by BANK.

10. If BANK believes it to be reasonably necessary to consult with counsel concerning any of its duties in connection with this Agreement, or in the event BANK retains counsel upon becoming involved in litigation on account of any deposit or of this Agreement, Franchisor shall reimburse BANK for and indemnify

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and hold BANK harmless against any and all costs, attorney's fees, charges, disbursements and expenses in connection with such consultation or litigation.

11. Franchisor unconditionally guarantees that, in the event BANK misapplies, dissipates, converts or is otherwise responsible for a deficiency in the funds deposited in the Escrow Account through the exercise of less than a fiduciary standard of care, Franchisor shall reimburse each and every franchisee to the extent of such deficiency if such amounts deposited are required to be returned to such franchisee under paragraph 6(a) through (c) hereof.

12. Franchisor shall give each franchisee a copy of this Agreement prior to collecting any moneys from such franchisee.

13. BANK's duties as escrowee shall terminate upon final distribution of all moneys received under this Agreement.

IN WITNESS WHEREOF, this Agreement has been duly executed, the parties intending to be legally bound hereby.

ATTEST:

BANK

By: _____

Its Secretary

Its _____

FRANCHISOR

By: _____

Its _____

(Source: Amended at 19 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

Section 200.APPENDIX C Escrow Forms

Section 200.ILLUSTRATION B Franchisor's Petition for Release of Escrowed Funds

_____) ss
_____) ss
_____)

IN THE MATTER OF:

FRANCHISOR:

FRANCHISEE:

BEFORE THE ATTORNEY GENERAL OF ILLINOIS
AS ADMINISTRATOR OF THE FRANCHISE DISCLOSURE ACT

The undersigned franchisor hereby requests the Administrator to authorize release from escrow the sum of \$_____, plus accrued interest representing the franchise fee paid by _____ on the _____ day of _____, 19_____.

The undersigned franchisor hereby represents that it has fulfilled the initial obligations owed to the franchisee under the franchise and other agreements and that the franchisee has commenced doing business.

Franchisor

By: _____

Name and Title

Printed Name of Franchisee

Address of Franchisee

Subscribed and sworn to before me
this _____ day
_____ 19_____.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

Section 200 APPENDIX E Surety Bond

We, _____ (name of franchisor), a corporation, with principal offices at _____ (address of franchisor) as principal, and _____ (name of surety company), a surety company with principal offices located at _____ (address of Surety), incorporated under the laws of the State of _____ and authorized to conduct business in the State of Illinois, as Surety, are indebted to the Administrator, Illinois Attorney General, 500 South Second Street, Springfield, Illinois 62706, Obligatee in the sum of _____ to be paid to the Obligor or its legal representatives, successors, or assigns, for which payment we bind ourselves and our legal representatives and successors, jointly and severally.

WHEREAS, the above-named principal has made application to the Administrator for registration of the offer of its franchises under the Illinois Franchise Disclosure Act and is required pursuant to said law to provide the Administrator with a Surety Bond.

WHEREAS, the Principal proposes to offer in Illinois franchise(s) within one year from the effective date of the proposed registration under the Illinois Franchise Disclosure Act; and

WHEREAS, the Obligor intends to assign this bond to the respective purchaser(s) of the aforementioned franchise(s) upon sale of the aforementioned franchise(s) to said purchaser(s).

The conditions of this bond are that if the Principal, its agent or employees shall:

1. Comply with the Illinois Franchise Disclosure Act and all rules and order promulgated thereunder; and
2. Pay all damages suffered by any person by reason of the violation of the Illinois Franchise Disclosure Act or any rules or orders promulgated thereunder or any acts, rules or orders amendatory thereof and/or supplementary thereto, or hereafter enacted, or by reason of any misrepresentation, deceit, fraud or omission to state a material fact necessary in order to make any statement made in the light of the circumstances under which such statement was made, not misleading, including, but not limited to, the failure to disclose, as required by Illinois Franchise Disclosure Act and the rules and regulations promulgated thereunder, the true financial condition of franchisor; and

3. Fully completes its obligations under the Franchise Agreement and all related Agreements to provide real estate, improvements, equipment, inventory, training and other items included in the franchise offering, then this obligation shall be void; otherwise this obligation will remain in full force and effect.

This bond and obligation hereunder shall be deemed to run continuously and shall remain in full force and effect for four full years after the date of execution of this document effective date of Principal's registration of the offer of franchises under the Illinois Franchise Disclosure Act.

In the event that any action or proceeding is initiated with respect to this bond, the parties agree that the venue thereof shall be the state or

province in which the offer or sale of the franchise occurred.
IN WITNESS WHEREOF, Principal and Surety have executed this instrument at _____
this _____ day of _____, 19____.

Principal

Surety

(Source: Amended at 19 ____ Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

Section 200. APPENDIX F Certificate of Deposit Forms

Section 200. ILLUSTRATION A Franchisor's Petition for Release of Certificate of Deposit

_____) SS
_____) SS
_____) SS

IN THE MATTER OF:

FRANCHISOR:

FRANCHISEE:

BEFORE THE ATTORNEY GENERAL OF ILLINOIS
AS ADMINISTRATOR FOR THE FRANCHISE DISCLOSURE ACT

The undersigned franchisor hereby requests the Administrator to authorize release of the Certificate of Deposit in the name of the Administrator in the sum of \$ _____, plus accrued interest representing the franchise fee paid by _____ on the _____ day of _____, 19____.

The undersigned franchisor hereby represents that it has fulfilled the initial obligations owed to the franchisee under the franchise and other agreements and that the franchisee has commenced doing business.

In furtherance of this request, the undersigned franchisor submits the franchisee's statement indicating the franchisee has no objection to this request. By this statement the franchisee has not waived any rights which he may have against the undersigned franchisor.

Franchisor

By: _____

Name and Title

Subscribe and sworn to before me
this _____ day of _____,
19____.

Notary Public

Printed Name of Franchisee

Address of Franchisee

(Source: Amended at 19 ____ Ill. Reg. _____, effective
_____) _____

ILLINOIS INDUSTRIAL COMMISSION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Arbitration

2) Code Citation: 50 Ill. Adm. Code 7030

3) Section Numbers: Proposed Action:
7030.10 Amendment
7030.30 Amendment

4) Statutory Authority: Sections 16 and 19 of the Workers' Compensation Act (Ill. Rev. Stat. 1991, ch. 48, pars. 138.16 and 138.19) [820 ILCS 305/16 and 305/19]

5) Complete Description of the Subjects and Issues Involved: The proposed amendment to Section 7030.10(d) gives the Commission the authority to consolidate cases in which more than one Petitioner files a claim against the same Respondent relating to the same accident. A reference is corrected in Section 7030.10(c).

The proposed amendment to Section 7030.30 clarifies and expands the provision relating to disqualification of Arbitrators and Commissioners. The proposal provides examples of instances where disqualification should occur and provides for remittal of disqualification in certain instances. The proposal also includes provisions regarding reassignment of cases in which disqualification occurs.

6) Will these proposed amendments replace emergency amendments currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: The rulemaking does not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act (Ill. Rev. Stat. 1991, ch. 85, par. 2203) [30 ILCS 805/3]

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Commission will accept written comments on this proposal for a period of 30 days after the date of this publication. Comments should be directed to:

Kathryn A. Kelley
Illinois Industrial Commission

ILLINOIS INDUSTRIAL COMMISSION

NOTICE OF PROPOSED AMENDMENTS

100 West Randolph Street
Suite 8-272
Chicago, Illinois 60601
(1-312/814-6559)

The Commission will hold public hearings on the proposed rulemakings as follows:

DATE: Monday, July 10, 1995

TIME: 10:00 a.m.

PLACE: Industrial Commission

100 West Randolph

Suite 8-243 (Oral Argument Room)

Chicago, Illinois 60601

DATE: Friday, July 14, 1995

TIME: 10:00 a.m.

PLACE: Industrial Commission

701 South Second Street

Springfield, Illinois 62704

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) State the reason(s) for this rulemaking if it was not included in either of the two (2) most recent regulatory agendas: This rulemaking was included in the agency's January, 1995 regulatory agenda.

The full text of the Proposed Amendments begins on the next page:

ILLINOIS INDUSTRIAL COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE

CHAPTER II: INDUSTRIAL COMMISSION

PART 7030

ARBITRATION

Section

7030.10

Arbitration Assignments

7030.20

Setting a Case for Trial

7030.30

Disqualification of Commissioners and Arbitrators

7030.40

Request for Hearing

7030.50

Subpoena Practice

7030.60

Depositions

7030.70

Rules of Evidence

7030.80

Briefs, Arbitrators' Decisions

7030.90

Opening and or Closing Statements

7030.100

Voluntary Arbitration under

Compensation Act and Section 19(m) of the Workers' Occupational Diseases Act

Diseases Act

Section 19(p) of the Workers' Occupational Diseases Act

Section 19(m) of the Workers' Occupational Diseases Act

Section 19(p) of the Workers' Occupational Diseases Act

Section 19(m) of the Workers' Occupational Diseases Act

Section 19(p) of the Workers' Occupational Diseases Act

Section 19(m) of the Workers' Occupational Diseases Act

Section 19(p) of the Workers' Occupational Diseases Act

Section 19(m) of the Workers' Occupational Diseases Act

Section 19(p) of the Workers' Occupational Diseases Act

Section 19(m) of the Workers' Occupational Diseases Act

Section 19(p) of the Workers' Occupational Diseases Act

Section 19(m) of the Workers' Occupational Diseases Act

Section 19(p) of the Workers' Occupational Diseases Act

Section 19(m) of the Workers' Occupational Diseases Act

Section 19(p) of the Workers' Occupational Diseases Act

Section 19(m) of the Workers' Occupational Diseases Act

Section 19(p) of the Workers' Occupational Diseases Act

Section 19(m) of the Workers' Occupational Diseases Act

Section 19(p) of the Workers' Occupational Diseases Act

Section 19(m) of the Workers' Occupational Diseases Act

Section 19(p) of the Workers' Occupational Diseases Act

Section 19(m) of the Workers' Occupational Diseases Act

Section 19(p) of the Workers' Occupational Diseases Act

Section 19(m) of the Workers' Occupational Diseases Act

Section 19(p) of the Workers' Occupational Diseases Act

Section 19(m) of the Workers' Occupational Diseases Act

Section 19(p) of the Workers' Occupational Diseases Act

AUTHORITY: Implementing Section 19 and authorized by Section 16 of the Workers' Compensation Act (Ill. Rev. Stat. 1991, ch. 48, pars. 138.19 and 138.16) [820 ILCS 305/19 and 16] and the Workers' Occupational Diseases Act (Ill. Rev. Stat. 1991, ch. 48, pars. 172.54 and 172.51) [820 ILCS 310/54 and 51].

SOURCE: Filed and effective March 1, 1977; amended at 4 Ill. Reg. 26, p. 159, effective July 1, 1980; emergency rule at 5 Ill. Reg. 8547, effective August 3, 1981, for a maximum of 150 days; amended at 6 Ill. Reg. 3570, effective March 22, 1982; emergency rule at 6 Ill. Reg. 5820, effective May, 1, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8040, effective July 7, 1982; amended at 6 Ill. Reg. 11909, effective September 20, 1982; codified at 7 Ill. Reg. 2514; amended at 9 Ill. Reg. 19722, effective December 6, 1985; emergency rule at 14 Ill. Reg. 4913, effective March 9, 1990, for a maximum of 150 days; emergency expired August 6, 1990; amended at 14 Ill. Reg. 13141, effective August 1, 1990; amended at 15 Ill. Reg. 8214, effective May 17, 1991; amended at 19 Ill. Reg. _____, effective _____.

Section 7030.10 Arbitration Assignments

a) In cases arising in Cook County, cases shall be assigned at the time of the First Notice of Hearing to Arbitrators on a random basis by a computer program. All cases filed prior to January 1, 1982, which have not been assigned to an Arbitrator for hearing or settlement shall be assigned to Arbitrators using a random assignment system established at the direction of the Commission to facilitate assignment of all such cases to an Arbitrator in an equitable and efficient manner.

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- b) In cases arising outside Cook County, cases shall be assigned to an Arbitrator depending on the place of accident. Each Arbitrator outside Cook County shall be given a zone or geographical territory; all claims based on accidents occurring within such zones shall be assigned to that Arbitrator.
- c) All assignments on arbitration are final except as otherwise provided in Sections 7030.30 ~~7040.20~~ and 7070.40, or where consolidation with a previously filed case is required.
- d) In the event a Petitioner has an Application for Adjustment of Claim pending and files one or more Applications for Adjustment of Claim against the same Respondent, or against different Respondents alleging accidental injuries to the same part of the body subsequent cases shall on motion of any party be assigned to the case filed first. If a case is dismissed or otherwise closed and the Petitioner files an Application for Adjustment of Claim relating to the same accident, the case will be assigned to the Arbitrator assigned to the first case filed involving that accident. Where more than one Petitioner files a claim against the same Respondent relating to the same accident, the cases may be consolidated before the Arbitrator assigned to the case first filed upon motion of any party, if such consolidation would promote consistency and efficiency of administration. All disputes involving reassignment shall be heard by the Chairman or a Commissioner designated by the Chairman.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 7030.30 Disqualification of Commissioners and Arbitrators

- a) No Arbitrator or Commissioner financially or otherwise interested in the outcome of any litigation, or any question connected therewith, shall participate in any manner in the adjudication of said cause, including the hearing of settlement contracts for lump sum petitions. ~~No change of hearing officer will be allowed for any other reason.~~
- b) Examples of instances where disqualification by an Arbitrator or Commissioner should occur include, but are not limited to the following:
- 1) he or she has personal knowledge of disputed evidentiary facts concerning the proceedings;
 - 2) he or she served as an attorney in the matter in controversy;
 - 3) he or she is a material witness concerning the matter;
 - 4) he or she was, within the preceding two years, associated in the practice of law with any law firm or attorney currently representing any party in the controversy;
 - 5) he or she was, within the preceding two years, employed by any party to the proceeding or any insurance carrier, service or adjustment company, medical or rehabilitation provider, labor

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organization or investigative service involved in the claim:
 6) he or she or his or her spouse, or a person within the third degree of relationship (pursuant to the civil law system) to either of them, or the spouse of such person:

- A) is a party to the proceeding, or an officer, director or trustee of a party;
- B) is acting as an attorney in the proceeding;
- C) is known by the Arbitrator or Commissioner to have a substantial financial interest in the subject matter in controversy;
- D) is to the Arbitrator's or Commissioner's knowledge likely to be a material witness in the proceeding;
- 7) he or she negotiated for employment with a party, a party's attorney or insurance carrier or service or adjustment company, in a matter in which the Arbitrator or Commissioner is presiding or participating in an adjudicative capacity.

Remittal of Disqualification

An Arbitrator or Commissioner disqualified under subsections (b)(5), (b)(6) or (b)(7) above, may disclose on the record the basis of the disqualification. If, based on such disclosure, the parties and attorneys, independently of the Arbitrator's or Commissioner's participation, all agree in writing that the Arbitrator's or Commissioner's interest is immaterial, the Arbitrator or Commissioner may participate in the proceeding. The agreement signed by all parties and all attorneys shall be made a part of the record of the proceeding.

Reassignment

1) Cases on Arbitration

A) Where an Arbitrator withdraws from a case and the venue of said case arises in Cook County, it shall be the duty of the Arbitrator to notify the Industrial Commission, whose function it shall be to transfer said case to a new Arbitrator chosen randomly from all the Arbitrators in Cook County.

B) Where an Arbitrator withdraws from a case and the venue of said case arises outside Cook County, it shall be the duty of the Arbitrator to notify the Industrial Commission, whose function it shall be to transfer said case to a new Arbitrator in the nearest contiguous geographical territory.

2) Cases on Review

When a Commissioner withdraws from a case, it shall be the duty of the Commissioner to notify the Industrial Commission, whose function it shall be to transfer the case to a Commissioner, representative of the same statutorily designated class, sitting on a panel other than that on which the withdrawing Commissioner sits.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Insurance Regulations
- 2) Code Citation: 50 Ill. Adm. Code 7100
- 3) Section Number: 720.1
- 4) Statute: Ill. Rev. Stat. 1991, ch. 48, par. 172.39 (820 ILCS 305.4 and 320.4) and authorized by Ill. Rev. Stat. 1991, ch. 48, par. 138.16 and Ill. Rev. Stat. 1991, ch. 48, par. 172.51 (820 ILCS 305.16 and 320.16).
- 5) A Complete Description of the Subjects and Issues Involved: The proposed rulemaking plan amends the criteria for self-insured employers and amends the criteria for review of an application and determination of security. The proposal provides that a self-insured employer which meets certain criteria may self-insure without furnishing security and provides for additional and alternative means satisfactory to the Commission for securing payment of compensation including, but not limited to, a letter of credit and an assignment of interest in real estate. The Chairman may waive the requirement of a parent guarantee as it relates to an alien parent company or alien controlled employer if the parent company or controlled employer furnishes security. The proposal clarifies the procedures relating to the hearing process to provide that all hearings are conducted in accordance with the Administrative Procedure Act and amends the process to provide that an employer may file a petition for reconsideration of a decision by the Chairman and request a hearing on the petition.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this part? No
- 10) Statement of Statewide Policy Objectives: The rulemaking does not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act (Ill. Rev. Stat. 1991, ch. 38, par. 203) (30 ILCS 805.3).
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Commission will accept written comment on this proposal for a period of 30 days after the date of this publication. Comments should be directed to:

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Lynne Wise
Office of Self-Insurance Administration
701 South Second Street
Springfield, Illinois 62704
1/217-785-7085

The Commission will hold public hearings on the proposed rulemaking as follows:

DATE: Monday, July 10, 1995
TIME: 10:00 a.m.
PLACE: Industrial Commission
100 West Randolph
Suite 8-243
Chicago, Illinois 60601

DATE: Friday, July 14, 1995
TIME: 10:00 a.m.
PLACE: Industrial Commission
701 South Second Street
Springfield, Illinois 62704

12) Initial Regulatory Flexibility Analysis:

A) Types of small business, small municipalities, and not-for-profit corporations affected: Any business or not-for-profit corporation which is self-insured or applies for self-insurance will be affected by these amendments.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) State reasons for this rulemaking if it was not included in either of the two most recent regulatory agendas: This rulemaking was included in the agency's January 1995 regulatory agenda.

The full text of the Proposed Amendment begins on the next page:

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TITLE 50: INSURANCE
CHAPTER II: INDUSTRIAL COMMISSION
PART 7100
INSURANCE REGULATIONS

Section	
7100.10	Insurance Forms
7100.20	Employer Coverage: Policy (Repealed)
7100.30	Policy Information Page
7100.40	Issuance of Binder Certificate (Repealed)
7100.50	Termination of Insurance
7100.70	Requirements For Approval as a Self-Insurer
7100.80	Self-Insurers to File Statements and Reports
7100.85	Administration of Claims Against Securities, Indemnity or Bonds of Self-Insurers
7100.90	Administration of Claims Against Group Self-Insurer's Insolvency Fund
7100.95	Employers Liability Fund
7100.100	Insurance Coverage: Compliance

AUTHORITY: Implementing Section 4 of the Workers' Compensation Act (Ill. Rev. Stat. 1991, ch. 48, par. 138.4) [820 ILCS 305/4], Section 4 of the Workers' Occupational Diseases Act (Ill. Rev. Stat. 1991, ch. 48, par. 172.39) [820 ILCS 310/4] and authorized by Section 16 of the Workers' Compensation Act (Ill. Rev. Stat. 1991, ch. 48, par. 138.16) [820 ILCS 305/16] and Section 16 of the Workers' Occupational Diseases Act (Ill. Rev. Stat. 1991, ch. 48, par. 172.51) [820 ILCS 310/16].

SOURCE: Filed and effective March 1, 1977; amended at 5 Ill. Reg. 8910, effective August 24, 1981; codified at 7 Ill. Reg. 2345; emergency amendment at 8 Ill. Reg. 15976, effective August 16, 1984, for a maximum of 150 days; amended at 9 Ill. Reg. 3705, effective March 12, 1985; emergency amendment at 10 Ill. Reg. 6003, effective April 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 15615, effective September 10, 1986; emergency amendment at 14 Ill. Reg. 4920, effective March 9, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13149, effective August 1, 1990; amended at 15 Ill. Reg. 16969, effective November 12, 1991; amended at 19 Ill. Reg. _____, effective _____.

Section 7100.70 Requirements for Approval as a Self-Insurer

a) Application

1) Initial Application

A) Any private employer under the Workers' Compensation Act (Ill. Rev. Stat. 1991, ch. 48, par. 138.1 et seq.) [820 ILCS 305] (the Act) and/or the Workers' Occupational Diseases Act (Ill. Rev. Stat. 1991, ch. 48, par. 172.36 et seq.) [820 ILCS 310] who shall desire to be approved as a

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self-insurer shall file with the Commission an application for approval on a form prescribed by the Commission and a current financial statement. A private employer does not include group self-insured employers under Section 4(a) of the Workers' Compensation Act or Section 4(a) of the Workers' Occupational Diseases Act or the State of Illinois, any political subdivision of the state, unit of local government or school district, or any other public authorities or quasi-governmental bodies including any subunits of the foregoing entities. (Section 4a-2(c) of the Act)

B) The application and current financial statement shall be signed and sworn to by the president or vice-president and secretary or assistant secretary of the employer if it be a corporation, or by all of the partners, if it be a copartnership, or by the owner if it be neither a copartnership nor a corporation. (Section 4(a)(1) of the Act)

C) In the event the employer does not have a current audited financial statement, the employer must submit a current financial statement which has been prepared by an outside accounting firm.

D) Each controlled employer or subsidiary requesting approval as a self-insurer shall provide the current financial statement of the parent corporation(s) or each of its controlling person(s) designated by the Commission.

i) A subsidiary means any entity in which another company, directly or indirectly, owns, controls or holds, with the power to vote a majority (more than 50 percent) of the outstanding voting securities of the company.

ii) Controlled employer means a not-for-profit corporation with respect to which an individual or another entity has the right either to elect or appoint, directly or indirectly, a majority of the directors, trustees or other governing body of a not-for-profit corporation, or has the right to approve or disapprove, directly or indirectly, the persons appointed as a majority of the directors, trustees or other governing body of a not-for-profit corporation.

iii) Controlling person means an individual or entity which has the right to elect or appoint, directly or indirectly, a majority of the directors, trustees or other governing body of a not-for-profit corporation, or has the right to approve or disapprove, directly or indirectly, the persons appointed as a majority of the directors, trustees or other governing body of a not-for-profit corporation. Each corporate subsidiary

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~~requesting approval as a self-insurer shall provide the current financial statement of the parent corporation. A subsidiary means any private entity in which another company, directly or indirectly, owns controls or holds, with the power to vote a majority (more than 50 percent) of the outstanding voting securities of the company.~~

E) All initial applications and financial statements shall be submitted at least 60 days prior to the requested effective date of self-insurance. (Section 4(a)(1) of the Act)

F) All initial applications must include evidence of current Workers' Compensation insurance coverage which shall be maintained until final approval as a self-insurer is granted.

G) Each private employer applying for self-insurance shall indicate how it will service its self-insurance program. The employer shall provide adequate facilities for the investigation, administration and payment of claims or shall contract with a service company possessing such personnel and facilities to provide such services. In determining whether facilities are adequate for the investigation, administration and payment of claims, the following shall be considered:

(i) whether there is personnel experienced in the adjudication of workers' compensation claims;

(ii) whether there is a reporting system for workers' compensation claims;

(iii) whether the reporting system is automated and the frequency of reports generated by the system; and

(iv) the response system to claims filing.

If the employer has contracted with a service company for the administration of claims, a copy of the contract shall be submitted with the initial application.

2) Renewal Application

A) Each private self-insurer shall, upon notice from the Commission, file annually an application to continue the self-insurance privilege. The renewal application shall be on a form prescribed by the Commission and shall be accompanied by a current financial statement as described in subsection (a)(1)(C). The renewal application and current financial statement shall be signed and sworn to in accordance with subsection (a)(1)(B) above. Each subsidiary or controlled employer requesting approval as a self-insurer shall provide the current financial statement of its parent corporation(s) or controlling person(s) designated by the Commission. Each corporate subsidiary shall provide the current financial statement of the parent corporation.

B) The self-insurer shall indicate any change in how it will

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service its self-insurance program. If the employer has contracted with a service company for the administration of claims, a copy of the current contract shall be submitted with the renewal application.

b) Application Fee

1) Each private employer applying for self-insurance and each private self-insurer applying for renewal (continuation) of the self-insurance privilege shall pay a non-refundable application fee of \$500.00 which shall be deposited upon receipt by the Commission into the Self-Insurers Administration Fund. (Section 4a-4(a) of the Act)

2) Where the applicant is a corporation, an application fee shall be required of each corporation and each and every corporate subsidiary. (Section 4a-4(a) of the Act) Where the applicant is a not-for-profit corporation employer, an application fee shall be required for each and every controlling person and each and every employer applying for the self-insurance privilege or the renewal of the self-insurance privilege.

3) The application fee shall be paid by check or money order made payable to the Self-Insurers Administration Fund.

c) Review of Application

1) Within 45 days of receipt of an initial application or an application to renew the self-insurance privilege, the Self-Insurer's Advisory Board (the Board) shall review or see to the review of the application and submit its recommendations for disposition to the chairman of the Commission (the Chairman). (Section 4(j) of the Act)

2) The review of the application shall include, but not be limited to, consideration of the earned points on the financial ratios set forth below: The Board shall evaluate each application on the basis of the employer's ability to demonstrate that its financial strength is sufficient to enable the employer to meet its obligations under the Workers' Compensation Act and the Workers' Occupational Diseases Act. The evaluation shall include, but not be limited to, the following:

A) Earned Points on Financial Ratios

A total of 9 or more points calculated by adding points earned in each of the following: 3 financial ratios shall create a rebuttable presumption that the employer shows sufficient financial strength to qualify as a self-insurer.

1) Current Assets to Current Liabilities

2	:	1	=	6 points
1.75	:	1	=	5 points
1.6	:	1	=	4 points
1.4	:	1	=	3 points
1.25	:	1	=	2 points

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1.1	:	1	=	1 points
1	:	1	=	0 points

(A negative ratio, one in which current assets are less than current liabilities, may be considered a reason to reject a new application).

ii) Capital & Retained Earnings (Net of Treasury Stock) to Sales (Less Discounts)

20%	=	6 points
17.5%	=	5 points
13.5%	=	4 points
10%	=	3 points
8.5%	=	2 points
7%	=	1 points
5%	=	0 points

iii) Capital & Retained Earnings to Long Term Debt

2	:	1	=	6 points
1.75	:	1	=	5 points
1.6	:	1	=	4 points
1.4	:	1	=	3 points
1.25	:	1	=	2 points
1.11	:	1	=	1 points
1	:	1	=	0 points

B) An employer who earns a total of 18 points in the three financial ratios in subsection (c)(2)(A)(i-iii) above in each year of the most current three years' audited financial statements and has been self-insured for a minimum of three consecutive years shall be deemed to have satisfied the Commission of its financial strength to meet its workers' compensation obligations without the necessity of furnishing security, indemnity or bond or making some other provision satisfactory to the Commission for securing its workers' compensation obligations pursuant to subsection (c)(3) below.

C) A total of 9 to 18 points earned in the three financial ratios in subsection (c)(2)(A)(i-iii) above shall create a rebuttable presumption that the employer's application should be approved conditional upon the furnishing of appropriate security or other means satisfactory to the Commission for securing its workers' compensation obligations pursuant to subsection (c)(3) below.

D) The Board may recommend for approval applicants who earn less than 9 points in the financial ratios of subsection

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(c)(2)(A)(i-iii) if the employer's application and financial statement, together with appropriate security or other means satisfactory to the Commission for securing its workers' compensation obligations pursuant to subsection (C)(3) below, demonstrate the ability of the employer to meet its obligations under the Workers' Compensation Act and Workers' Occupational Diseases Act.

3) Security Requirement

Where an applicant is required to furnish security, indemnity or a bond or provide some other means satisfactory to the Commission to guarantee payment of its workers' compensation obligation, the furnishing of such security, indemnity or bond or other provision shall be a condition precedent to the approval of the initial or renewal application for self-insurance. The Chairman shall require as a condition precedent to the approval of an initial or renewal application to self-insure that the applicant furnish security, indemnity and/or surety bond. The Chairman may also require that the applicant further secure payment of liabilities under the Workers' Compensation Act and Workers' Occupational Diseases Act by obtaining a policy of excess liability or catastrophe insurance on such form as may be required by the Commission.

A) Security Determination

- i) The amount of the security shall be based upon, but not be limited to, such criteria as the employer's financial strength, the amount of aggregate excess insurance, and demonstrated loss experience.
- ii) An employer's financial strength shall be determined by applying the financial ratio summarization below. The financial ratio summarization is based upon the total number of earned points as calculated by applying the financial ratios in subsection (c)(2)(A). A financial factor (percentage) is assigned to the financial ratio summarization. The applicable financial factor is applied in determining the amount of security in subsections (c)(3)(B) and (C) below.

Financial Ratio Summarization	
Financial Factor	Earned Points
16 - 18 points	= 35%
14 - 15 points	= 40%
12 - 13 points	= 60%
9 - 11 points	= 70%

B) Security/Aggregate Excess Liability Coverage

Employers who have excess liability insurance coverage shall be required to furnish security based upon the amount of aggregate retention applicable to the security requirement

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shall be calculated as follows:

- i) Where the employer submits audited financial statements, the security shall be in an amount equal to the loss fund size (the aggregate retention not covered by the excess workers' compensation insurance) multiplied by the applicable financial factor (percentage) assigned to the financial ratio summarization in subsection (c)(3)(A)(2).
- ii) If the employer submits financial statements which are not audited, the security shall be in an amount equal to the full loss fund size multiplied by 125 percent.
- iii) If the employer self-administers its workers' compensation claims program, a factor of 125% is applied to the formulas used in subsections (i) and (ii) above to cover the contingent claims cost in the event of insolvency.

B) Security/Loss Fund Determination No Aggregate Excess Liability Coverage

- i) Where the employer if the employer has no aggregate excess workers' compensation insurance coverage and submits audited financial statements, the security requirement shall be determined by using the highest amount of security obtained after applying the following formulas:

(a) Reserve formula:

Total outstanding loss reserves are multiplied by the applicable trending factor. In the event that an employer's losses are affected by growth or size of the entity, the losses will be equalized. The following formula is then applied:

total outstanding loss reserves (loss fund) x applicable trending factor x applicable financial factor = security.

(b) Paid loss formula:

Paid losses for up to each of the last 5 years are multiplied by the applicable trending factors. The total of paid losses is divided by the number of years used to obtain the average yearly paid loss. However, in the event that an employer's losses are affected by growth or size of the entity, the losses will be equalized. The following formula is then applied:

average yearly paid loss (loss fund) x applicable

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trending factor x applicable financial factor = security.

- ii) If the employer ~~has no aggregate excess workers' compensation insurance coverage and submits financial statements which are not audited, the security requirements shall be determined by using the highest amount of security obtained after applying the following formulas:~~

(a) Reserve formula:

total outstanding loss reserves (loss fund) x applicable trending factor x 125% = security.

(b) Paid loss formula:

Paid losses for up to each of the last 5 years are multiplied by the applicable trending factors. The total of paid losses is divided by the number of years used to obtain the average yearly paid loss. The following formula is then applied:

average yearly paid loss (loss fund) x applicable trending factor x 125% = security

- iii) Where the employer has aggregate excess insurance coverage, security may be based on the aggregate excess loss fund x applicable financial factor (percentage) assigned to the financial ratio summarization in subsection (c)(3)(A)(ii). If the employer submits financial statements which are not audited, the security shall be in an amount equal to the full aggregate excess loss fund multiplied by 125%.

iv) If the employer self-administers its workers' compensation claims program, or if the claims administration contract with an outside administrator does not include service of claims on an incurred basis, a factor of 120% is applied to the formulas used in subsections (c)(3)(B)(i), and (ii) and iii above, to cover the contingent claims cost in the event of insolvency.

v) All trending factors used in this subsection are adopted by resolution of the Board and are available from the Board or the Commission upon request. Trending factors are determined by reviewing the rates of inflation for self-insurance, including claim

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payments, both medical and indemnity, and costs of claim administration. The trending factor shall be determined after consultation with a Fellow of the Casualty Actuarial Society.

- C) The security requirement for self-insurers, who upon initial or renewal application ~~for continuation of the privilege, earn less than 9 points after applying the financial ratios in subsection (c)(2)(A), shall be determined as a percentage of the loss fund size as follows:~~

Minimum % of
increase of
Current Security

Percentage
of Loss Fund

Points Scored Loss Fund Size

6 - 8.9 0 - 250,000 130

250,001-500,000 120

500,001-1,000,000 110

1,000,001 + 100

3 - 5.9 0 - 250,000 150

250,001-500,000 130

500,001-1,000,000 120

1,000,001 + 110

0 - 2.9 0 - 250,000 200

250,001-500,000 175

500,001-1,000,000 150

1,000,001 + 130

If the percentage of loss fund referred to above is less than 125% and the employer has submitted unaudited financial statements, the percentage of loss fund used will be 125%. In addition, if the employer self administers its workers' compensation claims program or if the claims administration contract with an outside administrator does not include service of claims on an incurred basis, a factor of 120% is applied to cover the contingent claims cost in the event of insolvency.

- B) As part of the security to be submitted by a subsidiary, the subsidiary shall obtain a guarantee by the parent company that the obligations of the subsidiary under the Workers' Compensation Act and Workers' Occupational Diseases Act shall be paid. The guarantee shall be submitted on a form prescribed by the Commission. Whenever a self-insured parent or subsidiary subsequently changes ownership, it must notify the Commission immediately.

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D)† No surety bond may be terminated unless the Chairman has received written notice of such prospective termination at least 60 days prior to the termination date.

E)† Deposits under escrow agreements shall be cash, negotiable United States government bonds or negotiable general obligation bonds of the State of Illinois. Such cash or bonds shall be deposited in escrow with any State or national bank or trust company having trust authority in the State of Illinois. ~~(Section 4(b) of the Act)~~ (Section 4(b) of the Act) All escrow agreements shall be on a form provided by the Commission. Securities used to fund an escrow account shall have at all times a market value at least equal to the security requirement determined by the Chairman.

F)† Alternative and additional means satisfactory to the Commission for securing the payment of workers' compensation obligations include but shall not be limited to a letter of credit approved by the Chairman. All letters of credit must be on a form prescribed by the Commission. ~~A letter of credit approved by the Chairman may be accepted as security. All letters of credit must be on a form prescribed by the Commission.~~

G) As an alternative to posting security, the Chairman will consider allowing an employer who qualifies for self insurance to provide an indemnification agreement which is unlimited in amount to the Self-Insurers Security Fund for payments and expenses the fund incurs as a result of the failure of the employer to make workers' compensation payments as they become due under the Acts. The indemnitor must be an insurance company, not related to or affiliated with the self-insured employer, that is authorized to do business in this State. The Chairman reserves the right to make a determination as to the acceptability of the indemnitor and the content of the agreement.

4) Guaranty Agreement

A subsidiary or a controlled employer shall obtain a guaranty agreement executed by the parent company or controlling person(s) designated by the Commission. Pursuant to said agreement, the parent company or the controlling person(s) shall guarantee that the obligations of the subsidiary or the controlled employer under the Workers' Compensation Act and the Workers' Occupational Diseases Act shall be paid. The guarantee agreement shall be submitted on a form prescribed by the Commission. Whenever a guarantor under such an agreement ceases to be a parent company or controlling person(s) with respect to the subsidiary or controlled employer whose obligations it has guaranteed, the former parent company and subsidiary or controlling person(s) and controlled employer shall notify the Commission immediately.

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Notwithstanding any other provisions of this rule, if the Board determines that a controlled person or subsidiary is controlled by an alien controlling person or parent company, the Chairman may, in his or her discretion, waive the requirement that the controlled employer or subsidiary provide a guarantee agreement; provided, that the controlled employer or subsidiary shall furnish to the Commission security in an amount to be determined by the same methods used when an unaudited financial statement has been provided pursuant to subsection (c)(3)(B)(ii). "Alien controlling person or parent company" means a controlling person or parent company created or organized under the laws of a jurisdiction other than the United States of America or any political subdivision thereof.

d) Decision

Within 45 days after receipt of an initial application or application to renew (continue) the self-insurance privilege, the Board shall advise the Chairman of its recommendations regarding the disposition of that initial or renewal application. If the Chairman disagrees with any of the Board's recommendations, the Chairman shall, within 30 days after receipt of the Board's recommendations, notify the Board of the reasons in support of the decision. The Chairman shall also promptly notify the employer of the decision within 15 days after receipt of the recommendation of the Board. (Section 4(j) of the Act)

1) Approval

A) The Chairman shall notify the applicant in writing that it has been conditionally approved as a self-insurer. Approval may ~~will~~ be conditioned upon the furnishing of appropriate and adequate security. The notice shall set forth the requirements to be met, including, but not limited to, the furnishing of security and the basis therefor, obtaining appropriate excess liability or catastrophe insurance, and submission of an appropriate claims administration and loss control program.

B) Within 60 days after receipt of the notice described in subsection (d)(1)(A), the conditionally approved employer shall comply with all of the requirements of conditional approval as stated in the notice. The Chairman shall then issue a certificate of approval as a self-insurer. The effective date of self-insurance shall be set forth in the certificate of approval.

C) Failure of the conditionally approved employer to comply with all requirements of conditional approval within 60 days after receipt of the notice in subsection (d)(1)(A) or to file a request for reconsideration pursuant to subsection (f) below shall cause the Chairman to issue an order denying the request for approval as a self-insurer. Such order shall be subject to review pursuant to subsection (h) below. A notice shall be sent forth at the time of hearing within

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~~30--days--after--the--date--of--the--notice--at--which--the--employer--must--show--cause--why--the--self--insurance--application--should--not--be--rejected--and--the--self--insurance--privilege--denied--and/or--terminated--the--Chairman--shall--notify--the--employer--of--the--decision--in--writing--after--the--hearing--date.~~ Nothing herein shall bar the employer from reapplying for approval as a self-insurer.

2) Denial

A) The Chairman shall notify the employer in writing that the employer's initial or renewal application and financial statement do not warrant approval of the self-insurance privilege. The notice shall set forth the reasons why the employer's application for approval as a self-insurer should be denied. ~~the--notice--shall--also--set--forth--a--date--and--a--time--of--hearing--within--30--days--after--the--date--of--the--notice--at--which--the--employer--must--show--cause--why--the--self--insurance--privilege--should--not--be--denied--and/or--terminated.~~

B) Failure of the employer to file a request for reconsideration pursuant to subsection (f) below shall cause the Chairman to issue an order denying the request for approval as a self-insurer. Such order shall be subject to review pursuant to subsection (h) below. ~~if--the--Chairman--determines--that--the--request--for--self--insurance--should--be--denied--after--the--hearing--date--the--Chairman--shall--issue--an--order--denying--the--request--for--approval--as--a--self--insurer--the--order--shall--set--forth--the--reasons--for--the--denial.~~

C) When the Chairman denies an application for renewal of the self-insurance privilege, nothing herein shall bar an employer from reapplying for approval as a self-insurer. Such re-application shall be considered an initial application and must qualify under subsection (c)(2).

e) Additional Information

1) The Chairman may at any time, on his own initiative or at the request of the Board, require a self-insurer to file additional information related to the self insurers' ability to adequately secure payment of its financial obligations under the Workers' Compensation Act and Workers' Occupational Diseases Act. Such information shall include, but not be limited to, information related to the employer's financial condition, the employer's ability to provide an adequate claims administration, loss control, or safety program, and to provide adequate excess insurance coverage.

2) Upon review of the additional information, if the Chairman finds, after consultation with the Board, that the security furnished by the self-insurer should be adjusted or that the self-insurance privilege should be terminated, the Chairman shall notify the employer of any change in the security requirement or of his

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intent to terminate the self-insurance privilege and the reasons therefor. The notice shall set forth a time and place of hearing on the matter, within 30 days after the date of the notice--~~at which--the--employer--must--show--cause--why--the--security--should--not--be--adjusted--or--why--the--self--insurance--privilege--should--not--be--terminated.~~ The Chairman shall notify the employer of the decision in writing after the hearing date. Such decisions shall be subject to review pursuant to subsection (h) below.

3) Failure of a self-insurer to comply with a request for additional information, without good cause, may cause the Chairman to initiate proceedings to terminate the self-insurance privilege.

f) Petition for Reconsideration

1) Within 21 days after receipt of a notice of conditional approval or a notice that the employer's initial or renewal application does not warrant approval of the self-insurance privilege, the employer may file a petition for reconsideration of the Chairman's determination.

2) The petition for reconsideration shall be made in writing and must state the reasons why the Chairman should reconsider the decision.

3) The petition shall be accompanied by any documents which support the employer's position, and, if applicable, any information not previously considered. Such information may include, but is not limited to, evidence of an improving financial condition which was not available to the Board when the application was reviewed.

4) Request for Hearing

A) The employer may request a hearing on the petition for reconsideration. The request for hearing must be filed with the request for reconsideration.

B) Upon the filing of a timely petition for reconsideration and request for hearing as defined in subsection (f)(1) above, the Chairman shall issue a notice which sets forth a place and time of hearing within 30 days after the date of the notice.

C) Hearings on the petition for reconsideration shall be conducted in accordance with subsection (g) below.

D) In the absence of a request for hearing, the Chairman may consider all matters at issue from the petition for reconsideration and accompanying documentation.

5) The Chairman shall issue an order notifying the employer of his final decision and the reasons therefor. Such order shall be subject to review pursuant to subsection (h) below.

g) Conduct of Hearings

1) All hearings under this Section shall be conducted by the Chairman or Commissioner designated by the Chairman.

2) All hearings shall be conducted in accordance with the requirements of Article 10 of the Administrative Procedure Act (Ill. Rev. Stat. 1991, ch. 127, pars. 100-5 et seq.) [5 ILCS

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- | 1) <u>Heading of the Part:</u> | Food Stamps |
|--------------------------------|-------------------------|
| 2) <u>Code Citation:</u> | 89 Ill. Adm. Code 121 |
| 3) <u>Section Numbers:</u> | <u>Proposed Action:</u> |
| 121.160 | Amendment |
| 121.162 | Amendment |
| 121.182 | Amendment |
| 121.184 | |
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, par. 12-13) [305 ILCS 5/12-13] and P.A. 89-6.
- 5) Complete Description of the Subjects and Issues Involved: In accordance with provisions of P.A. 89-6, these proposed amendments allow exempt and nonexempt individuals ordered by a court of competent jurisdiction to participate in the Earnfare component of the Food Stamp Employment and Training Program. As a result of these proposed amendments, receipt of food stamps will not be an eligibility requirement for individuals ordered by a court of competent jurisdiction who are non-custodial parents of AFDC children.

This rulemaking provides that court-ordered Earnfare participants will be able to participate for six months unless the court orders participation for less than six months out of any 12 consecutive month period. For these participants, hours engaged in employment-assigned activities multiplied by the minimum wage will first be applied as a \$50.00 payment made to the custodial parent as a support obligation. If the court-ordered participant receives Food Stamp benefits, the individual will engage in employment-assigned activities equal to the amount of the food stamp benefits divided by the federal minimum wage and will then be able to earn minimum wage assistance for each additional hour of performance in Earnfare activity. The individual will be able to earn a maximum of \$231.00 each month including the amount of the support obligation.

Persons ordered by a court of competent jurisdiction to participate in Earnfare will be referred back to the court when unable to perform the work that has been assigned. If the individual fails to cooperate with the Food Stamp Employment and Training Program, without good cause, he or she will be referred back to the court for failure to comply with the court order.

In addition to individuals who volunteer to participate in Earnfare, individuals ordered by a court of competent jurisdiction to participate in Earnfare will not be subject to food stamp disqualifications for non-participation in Earnfare.

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- 100/Art. 10].
- 3) At the hearing, the employer shall have the right to respond and to call witnesses, cross-examine witnesses and present evidence. ~~to show why the Chairman should not deny or terminate the self-insurance privilege or adjust the security.~~
- 4) The Commission, or any member thereof, shall have the power to administer oaths, to subpoena and examine witnesses and issue subpoenas duces tecum requiring the production of such books, papers, records or documents as may be evidence to determine the issues of denial or termination of the self-insurance privilege or adjustment of the security. (Ill. Rev. Stat. 1991 1989, ch. 48, par. 138.16) [820 ILCS 305/16]
- 5) The Illinois common law rules of evidence and Article VIII of the Code of Civil Procedure (Ill. Rev. Stat. 1991 1989, ch. 110, par. 8-101 et seq.) [35 ILCS 5/Art. VIII 8-101 et seq.] shall apply at the hearing.
- h) Appeal
- All orders made by the Chairman under Section 4(j) of the Act shall be subject to review in the same manner and within the same time as provided by subsection (f) of Section 19 of the Act for review of awards and decisions of the Commission. (Section 4(j) of the Act)

(Source: Amended at 19 Ill. Reg. _____, effective _____)

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TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 121
FOOD STAMPS

6) Will these proposed amendments replace emergency amendments currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

11) Time, Place, and Manner in which Interested Persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to Judy Umunna, Bureau of Rules and Regulations, Illinois Department of Public Aid, 100 South Grand Ave. E., 3rd Floor, Springfield, Illinois 62762 (Phone: (217) 524-3215). The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) State reasons for this rulemaking if it was not included in either of the two most recent regulatory agendas: The reasons for this rulemaking are fully described above in the complete description of the subjects and issues involved. This rulemaking was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of the Proposed Amendments begins on the next page:

Section	Application for Assistance
121.1	Time Limitations on the Disposition of an Application
121.2	Approval of an Application and Initial Authorization of Assistance
121.3	Denial of an Application
121.4	Client Cooperation
121.5	Emergency Assistance
121.6	Expedited Services
121.7	Interviews
121.10	
Section	Ending a Voluntary Quit Disqualification
121.19	Citizenship
121.20	Residence
121.21	Social Security Numbers
121.22	Work Registration/Participation Requirements (Repealed)
121.23	Work Registration/Participation Requirements (Repealed)
121.24	Individuals Exempt From Work Registration Requirements (Repealed)
121.25	Failure to Comply (Repealed)
121.26	Period of Disqualification (Repealed)
121.27	Voluntary Job Quit
121.28	Good Cause for Voluntary Job Quit
121.29	Exemptions from Voluntary Quit Rule
Section	Unearned Income
121.30	Exempt Unearned Income
121.31	Education Benefits
121.32	Unearned Income In-Kind
121.33	Lump Sum Payments and Income Tax Refunds
121.34	Earned Income
121.40	Budgeting Earned Income
121.41	Exempt Earned Income
121.50	Income from Work/Study/Training Programs
121.51	Earned Income from Roomer and Boarder
121.52	

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121.53 Income From Rental Property
 121.54 Earned Income In-Kind
 121.55 Sponsors of Aliens
 121.57 Assets
 121.58 Exempt Assets
 121.59 Asset Disregards

SUBPART D: ELIGIBILITY STANDARDS

Section
 121.60 Net Monthly Income Eligibility Standards
 121.61 Gross Monthly Income Eligibility Standards
 121.62 Income Which Must Be Annualized
 121.63 Deductions From Monthly Income
 121.64 Coupon Allotment

SUBPART E: HOUSEHOLD CONCEPT

Section
 121.70 Composition of the Assistance Unit
 121.71 Living Arrangement
 121.72 Nonhousehold Members
 121.73 Ineligible Household Members
 121.74 Strikers
 121.75 Students
 121.76 Households Receiving AFDC, SSI, Interim Assistance and/or GA -
 Categorical Eligibility

SUBPART F: MISCELLANEOUS PROGRAM PROVISIONS

Section
 121.80 Fraud Disqualification (Renumbered)
 121.81 Initiation of Administrative Fraud Hearing (Repealed)
 121.82 Definition of Fraud (Renumbered)
 121.83 Notification To Applicant Households (Renumbered)
 121.84 Disqualification Upon Finding of Fraud (Renumbered)
 121.85 Court Imposed Disqualification (Renumbered)
 121.90 Monthly Reporting and Retrospective Budgeting
 121.91 Monthly Reporting
 121.92 Retrospective Budgeting
 121.93 Direct Mail Issuance of Food Stamp Coupons
 121.94 Replacement of Food Stamp Coupons
 121.95 Restoration of Lost Benefits
 121.96 Uses For Food Coupons
 121.97 Supplemental Payments
 121.98 Food Stamp Simplified Application Demonstration Project (Repealed)
 121.120 Recertification of Eligibility
 121.130 Residents of Shelters for Battered Women and their Children

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121.135 Incorporation By Reference
 121.140 Small Group Living Arrangement Facilities and Drug/Alcoholic Treatment Centers

SUBPART G: INTENTIONAL VIOLATIONS OF THE PROGRAM

Section
 121.150 Definition of Intentional Violations of the Program
 121.151 Penalties for Intentional Violations of the Program
 121.152 Notification To Applicant Households
 121.153 Disqualification Upon Finding of Intentional Violation of the Program
 121.154 Court Imposed Disqualification

SUBPART H: FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM

Section
 121.160 Persons Required to Participate
 121.162 Participation and Cooperation Requirements
 121.164 Orientation
 121.166 Assessment and Employability Plan
 121.170 Job Search Component
 121.172 Basic Education Component
 121.174 Job Readiness Component
 121.176 Work Experience Component
 121.178 Job Training Component
 121.180 Grant Diversion Component
 121.182 Earnfare Component
 121.184 Sanctions
 121.186 Good Cause for Failure to Cooperate
 121.188 Supportive Services
 121.190 Conciliation and Fair Hearings
 121.200 Types of Claims (Recodified)
 121.201 Establishing a Claim for Intentional Violation of the Program (Recodified)
 121.202 Establishing a Claim for Unintentional Household Errors and Administrative Errors (Recodified)
 121.203 Collecting Claim Against Households (Recodified)
 121.204 Failure to Respond to Initial Demand Letter (Recodified)
 121.205 Methods of Repayment of Food Stamp Claims (Recodified)
 121.206 Determination of Monthly Allotment Reductions (Recodified)
 121.207 Failure to Make Payment in Accordance with Repayment Schedule (Recodified)
 121.208 Suspension and Termination of Claims (Recodified)

AUTHORITY: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat., 1991, ch. 23, para. 12-4.4 through 12-4.6 and 12-13) [305 ILCS 5/12-4.4 through 12-4.6 and 12-13].

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SOURCE: Adopted December 30, 1977; amended at 3 Ill. Reg. 5, p. 875, effective February 2, 1979; amended at 3 Ill. Reg. 31, p. 109, effective August 3, 1979; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 41, p. 165, effective October 11, 1979; amended at 3 Ill. Reg. 42, p. 230, effective October 9, 1979; amended at 3 Ill. Reg. 44, p. 173, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 3, p. 49, effective January 9, 1980; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 23, 1980; amended at 4 Ill. Reg. 10, p. 233, effective February 27, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 17, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1131, effective January 16, 1981; amended at 5 Ill. Reg. 4586, effective April 15, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; peremptory amendment at 10062, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 12736, effective October 29, 1981; amended at 6 Ill. Reg. 1653, effective January 17, 1982; amended at 6 Ill. Reg. 2707, effective March 2, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10208, effective August 9, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 5715, effective May 1, 1983; amended at 7 Ill. Reg. 8118, effective June 24, 1983; peremptory amendment at 7 Ill. Reg. 12899, effective October 1, 1983; amended at 7 Ill. Reg. 13655, effective October 4, 1983; peremptory amendment at 7 Ill. Reg. 16067, effective November 18, 1983; amended at 7 Ill. Reg. 16169, effective November 22, 1983; amended at 8 Ill. Reg. 5673, effective April 18, 1984; amended at 8 Ill. Reg. 7249, effective May 16, 1984; peremptory amendment at 8 Ill. Reg. 10086, effective July 1, 1984; amended at 8 Ill. Reg. 13284, effective July 16, 1984; amended at 8 Ill. Reg. 17900, effective September 14, 1984; amended (by adding section being codified with no substantive change) at 8 Ill. Reg. 17898; peremptory amendment at 8 Ill. Reg. 19690, effective October 1, 1984; peremptory amendment at 8 Ill. Reg. 22145, effective November 1, 1984; amended at 9 Ill. Reg. 302, effective January 1, 1985; amended at 9 Ill. Reg. 5804, effective May 1, 1985; amended at 9 Ill. Reg. 8665, effective May 29, 1985; peremptory amendment at 9 Ill. Reg. 8898, effective July 1, 1985; amended at 9 Ill. Reg. 11334, effective July 8, 1985; amended at 9 Ill. Reg. 14334, effective September 6, 1985; peremptory amendment at 9 Ill. Reg. 15582, effective October 1, 1985; amended at 9 Ill. Reg. 16889, effective October 16, 1985; amended at 9 Ill. Reg. 19726, effective December 9, 1985; amended at 10 Ill. Reg. 229, effective December 20, 1985; peremptory amendment at 10 Ill. Reg. 7387, effective April 21, 1986; peremptory amendment at 10 Ill. Reg. 7941, effective May 1, 1986; amended at 10 Ill. Reg. 14692, effective August 29, 1986; peremptory amendment at 10 Ill. Reg. 15714,

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effective October 1, 1986; Sections 121.200 thru 121.208 recodified to 89 Ill. Adm. Code 165 at 10 Ill. Reg. 21094; peremptory amendment at 11 Ill. Reg. 3761, effective February 11, 1987; emergency amendment at 11 Ill. Reg. 3754, effective February 13, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 9968, effective May 15, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 10269, effective May 22, 1987; amended at 11 Ill. Reg. 10621, effective May 25, 1987; peremptory amendment at 11 Ill. Reg. 11391, effective July 1, 1987; peremptory amendment at 11 Ill. Reg. 11855, effective June 30, 1987; emergency amendment at 11 Ill. Reg. 12043, effective July 6, 1987; amended at 11 Ill. Reg. 13635, effective August 1, 1987; amended at 11 Ill. Reg. 14022, effective August 10, 1987; emergency amendment at 11 Ill. Reg. 15261, effective September 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 15180, effective September 4, 1987; amended at 11 Ill. Reg. 15634, effective September 11, 1987; amended at 11 Ill. Reg. 18218, effective October 30, 1987; peremptory amendment at 11 Ill. Reg. 18374, effective October 30, 1987; amended at 12 Ill. Reg. 877, effective December 30, 1987; emergency amendment at 12 Ill. Reg. 1941, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 4204, effective February 5, 1988; amended at 12 Ill. Reg. 9678, effective May 23, 1988; amended at 12 Ill. Reg. 9922, effective June 1, 1988; amended at 12 Ill. Reg. 11463, effective June 30, 1988; amended at 12 Ill. Reg. 12824, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 14045, effective August 19, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 15704, effective October 1, 1988; peremptory amendment at 12 Ill. Reg. 16271, effective October 1, 1988; amended at 12 Ill. Reg. 20161, effective November 30, 1988; amended at 13 Ill. Reg. 3990, effective March 10, 1989; amended at 13 Ill. Reg. 13619, effective August 14, 1989; peremptory amendment at 13 Ill. Reg. 15859, effective October 1, 1989; amended at 14 Ill. Reg. 729, effective January 1, 1990; amended at 14 Ill. Reg. 6349, effective April 13, 1990; amended at 14 Ill. Reg. 13202, effective August 6, 1990; peremptory amendment at 14 Ill. Reg. 15158, effective October 1, 1990; amended at 14 Ill. Reg. 16983, effective September 30, 1990; amended at 15 Ill. Reg. 11150, effective July 22, 1991; amended at 15 Ill. Reg. 11957, effective August 12, 1991; peremptory amendment at 15 Ill. Reg. 14134, effective October 1, 1991; emergency amendment at 16 Ill. Reg. 757, effective January 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 10011, effective June 15, 1992; amended at 16 Ill. Reg. 13900, effective August 31, 1992; emergency amendment at 16 Ill. Reg. 16221, effective October 1, 1992, for a maximum of 150 days; peremptory amendment at 16 Ill. Reg. 16345, effective October 1, 1992; amended at 16 Ill. Reg. 16624, effective October 23, 1992; amended at 17 Ill. Reg. 644, effective December 31, 1992; amended at 17 Ill. Reg. 4333, effective March 19, 1993; amended at 17 Ill. Reg. 14625, effective August 26, 1993; emergency amendment at 17 Ill. Reg. 15149, effective September 7, 1993, for a maximum of 150 days; peremptory amendment at 17 Ill. Reg. 17477, effective October 1, 1993; expedited correction at 17 Ill. Reg. 21216, effective October 1, 1993; amended at 18 Ill. Reg. 2033, effective January 21, 1994; emergency amendment at 18 Ill. Reg. 2509, effective January 27, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 3427, effective February 28, 1994; amended at 18 Ill. Reg. 8921, effective June 3, 1994; amended at 18 Ill.

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Reg. 12829, effective August 5, 1994; amended at 18 Ill. Reg. 14103, effective August 26, 1994; amended at 19 Ill. Reg. 5626, effective March 31, 1995; amended at 19 Ill. Reg. 6648, effective May 5, 1995; amended at 19 Ill. Reg. _____, effective _____.

SUBPART H: FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM

Section 121.160 Persons Required to Participate

- a) All individuals receiving food stamps who are not exempt will be required to participate in the Food Stamp Employment and Training program, to the extent resources are available. This includes, in priority order:

1) Individuals who meet the eligibility requirements for Transitional Assistance but who are "employable". These individuals may volunteer for Earnfare or may, if resources are available, be required to participate in other Food Stamp Employment and Training activities;

2) Recipients of Transitional Assistance;

3) Nonexempt clients receiving Family and Children Assistance may be required to participate in the Food Stamp Employment and Training program. See 89 Ill. Adm. Code 112.70 through 112.76 for requirements for these clients; and

4) Exempt and nonexempt individuals ordered by a court of competent jurisdiction to participate in Earnfare. Receipt of food stamps is not an eligibility requirement for individuals ordered by a court of competent jurisdiction who are non-custodial parents of AFDC children; and

5) All other nonexempt food stamp recipients not receiving AFDC or Refugee Assistance.

- b) Those individuals exempt from the Food Stamp Employment and Training program are (however, individuals may volunteer to participate):

1) Individuals age 55 or over;

2) Persons who are participating in a substance abuse treatment program or who are on a waiting list for such a program;

3) Individuals who are homeless. Homeless is this instance is someone who has no current address and no expectation of acquiring a residence in the next 30 days. It excludes individuals living with friends or relatives on a continuous basis. It includes individuals in overnight transitional shelters. Under this category of exemption, if the individual remains homeless after 12 months, the individual is deemed no longer exempt from program participation, unless exempt under a different category;

4) Individuals who are chronically ill, as determined by a physician or licensed/certified psychologist who finds that a physical or mental impairment, either by itself or in conjunction with age or other factors, prevents the person from engaging in employment or

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participating in the Food Stamp Employment and Training Program; 5) Persons who are temporarily ill, for the medically documented period of the illness;

6) Individuals who have another household member who requires the full-time care of the individual;

7) Individuals who are under 16 years of age;

8) Individuals age 16 or 17 who are not the head of a household or who are attending school or are enrolled in a training program on at least a half time basis;

9) Students enrolled at least half time in any recognized school, training program, or institution of higher education; provided that students enrolled at least half time in an institution of higher education have met the eligibility conditions as defined at 7 CFR 273.5. A student enrolled in a school, training program or institution of higher education shall remain exempt during normal periods of class attendance, vacation and recess, unless the student graduates, is suspended or expelled, drops out, or does not intend to register for the next normal school term (excluding summer);

10) Individuals who are employed or self-employed and working a minimum of 30 hours per week or receives earnings equal to or greater than 30 times the Federal Minimum Wage;

11) Individuals receiving unemployment insurance or individuals who have applied for unemployment insurance if the person was required to register for work with Job Service as part of the unemployment compensation application process; and

12) Persons who are full-time VISTA volunteers under Title I of the 1973 Domestic Volunteer Services Act (42 U.S.C. 4951 et seq.) who were recipients of public assistance under Article VI of the Illinois Public Aid Code [305 ILCS 5/Art. VI] when they joined VISTA, or are full-time volunteers under Title II of the Act (15 U.S.C. 637 et seq.), which includes foster grandparents, senior health aides, senior companions, or persons serving in the Senior Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE).

(Source: Amended at 19 Ill. Reg. _____, effective _____.)

Section 121.162 Participation and Cooperation Requirements

- a) To the extent resources allow, the Department shall establish employment, education and training programs for food stamp recipients in the Food Stamp Employment and Training program. All Food Stamp Assistance recipients not exempt under Section 121.160(b) may be required to participate and cooperate in the Food Stamp Employment and Training program to the extent resources allow. Individuals who are not Food Stamp Assistance recipients may be ordered by a court of

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competent jurisdiction to participate in the Earnfare component if they are non-custodial parents of AFDC children. The individual will be given the participation requirements in writing for each component to which the individual is assigned. These components include:

- 1) Basic Education (see Section 121.172);
- 2) Job Training (see Section 121.178);
- 3) Job Search (see Section 121.170);
- 4) Work Experience (see Section 121.176);
- 5) Job Readiness (see Section 121.174);
- 6) Grant Diversion (see Section 121.180); and
- 7) Earnfare (see Section 121.182), which is limited to employable individuals who are otherwise eligible for Transitional Assistance and who volunteer for the Earnfare component and individuals ordered by a court of competent jurisdiction to volunteer for Earnfare.

b) The individual may be required to participate in such employment and training programs for up to five days per week and 30 hours per week, up to a maximum of 120 hours per month.

c) An individual is required to participate in the Food Stamp Employment and Training program by:

- 1) Cooperating with the Food Stamp Employment and Training program. Cooperation with the Food Stamp Employment and Training program is defined as providing information on the individual's background, education level, and work history as well as factors affecting employability or ability to meet participation requirements (including health, physical or mental limitations, family problems, and any other related factors), appearing for scheduled meetings, and complying with the requirements of the Food Stamp Employment and Training program components identified in Sections 121.170 through 121.182.

2) Job Contacts in Job Search. Individuals are required to make 20 acceptable employer contacts in every 30 calendar days while in the Job Search component.

- A) Ten of the 20 required contacts must be either:
 - i) the completion and return of an application; or
 - ii) a face-to-face interview with an employer.
- B) The remaining ten contacts may be any combination of the following:
 - i) the completion and return of an application;
 - ii) a face-to-face interview with an employer;
 - iii) the completion of a civil service test required for employment with the State, Local, or Federal Government;
 - iv) the completion of a Job Service screening test;
 - v) the mailing of a resume with a covering letter to an employer;
 - vi) for union members in good standing, reporting to the union hall;

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vii) reporting to a day labor hall; or
viii) reporting for temporary office service.

C) Acceptable contacts are documented by written statements provided to the Food Stamp Employment and Training worker by the individual. The Food Stamp Employment and Training worker may verify the job contacts by contacting the employer.

D) No individual shall be sanctioned and/or have Food Stamps disqualified for failure to make the appropriate number of job contacts if the individual has made a good faith effort to make the job contacts. Whether an individual has made a good faith effort to make the required number and types of contacts is based on all the facts and circumstances of each case. Good faith effort exists when circumstances beyond the control of the individual prevent the individual from making the required number of contacts. Good faith effort may include, but is not limited to the following:

- i) the individual appears for a scheduled interview and the employer misses the appointment;
- ii) the individual has fewer than 20 contacts and/or fewer than ten interviews or applications, but came reasonably close to the required numbers in an effort to find work;
- iii) the individual fails a civil service or other employment screening test;
- iv) the individual completes an application which is not accepted by the employer; and
- v) the individual's job search performance indicates that the individual should be in a different Food Stamp Employment and Training component or in a rehabilitation program or should be evaluated by the Client Assessment Unit as potentially eligible for SSI.

3) Responding to a job referral of suitable employment (such as, a written statement referring a mandatory registrant to an employer for a specific position).

4) Accepting a bona fide offer of suitable employment. An individual must be given the opportunity to explain why an offer of employment was not accepted.

A) A bona fide offer of suitable employment is where there was a definite offer of employment substantiated by confirmation from the prospective employer at wages meeting any applicable minimum wage requirements and which are customary for such work in the community, based on information obtained from the Department of Employment Security; and

B) Suitable employment must meet the following requirements:

- i) there are no questions as to the mandatory registrant's inability to engage in such employment

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for medical reasons or because he has no way to get to or from the particular job;

- ii) there are no questions of working conditions, such as risks to health, safety, or lack of worker's compensation protection;

- iii) wages offered must be at least the Federal minimum wage, the State minimum wage, or \$4.25 per hour (if neither the Federal nor State minimum wage is applicable);

- iv) if the wages are offered on a piece-rate basis, the amount the individual can reasonably be expected to earn must equal the wages as outlined in subsection (c)(4)(B)(iii) of this Section;

- v) the mandatory registrant may not be required, as a condition of employment, to join, resign from, or refrain from joining any legitimate labor organization;

- vi) there is no unreasonable degree of risk to the mandatory registrant's health and safety; and

- vii) the mandatory registrant is physically and mentally competent to perform the work.

- 5) Registering and appealing for any subsequent interviews at the Department of Employment Security's Job Service Offices.

- d) Food Stamp Employment and Training participants who are employed must:

- 1) Continue their employment; and

- 2) Not reduce their employment (for example, voluntarily reducing work hours).

- e) Failure to participate or cooperate with the Food Stamp Employment and Training requirements listed in this Section will result in a food stamp disqualification and/or financial sanction as outlined in Section 121.184.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 121.182 Earnfare Component

- a) Assignment to the Earnfare Component is limited to food stamp individuals who are initially otherwise eligible for Transitional Assistance and who are "employable" and volunteer to participate in Earnfare. Exempt and nonexempt food stamp individuals and individuals not receiving food stamps may be ordered by a court of competent jurisdiction to participate in the Earnfare component.

- b) Eligibility Criteria

- 1) Eligibility for the Earnfare Component shall be limited to six months out of any 12 consecutive month period except that court-ordered participants shall participate for six months unless the court orders participation for less than six months

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out of any 12 consecutive month period.

- 2) Individuals are not entitled to be placed in an Earnfare slot. Earnfare slots shall be made available only as resources permit.

- 3) To the extent resources permit, the Earnfare program will allow individuals to work for monthly payments and to improve their employability in order to succeed in obtaining employment.

- c) Administration and Contracts

- 1) The Illinois Department shall administer the Earnfare program in Chicago.

- 2) The Illinois Department may enter into cooperative agreements with local governmental units that receive State funds and want to participate in the operation of the Earnfare program outside the city of Chicago. The Department shall establish the policies and procedures for the program and monitor Earnfare programs in local governmental units.

- 3) The Illinois Department may enter into contracts with other public agencies including State agencies, local governmental units, and not-for-profit community based organizations to help develop Earnfare opportunities and otherwise administer the program.

- 4) The Illinois Department may enter into contracts with community based organizations as comprehensive providers to administer and operate Earnfare in the city of Chicago.

- 5) The Illinois Department shall provide Worker's Compensation coverage for each individual assigned to Earnfare.

- d) Notification and Referrals

- 1) In areas where an Earnfare program is operating, when the Illinois Department of the local governmental unit learns that individuals are in the following categories, it shall inform them in writing and, whenever possible, orally of the existence of Earnfare and the method for requesting an Earnfare referral.

- A) Households approved or certified for non-assistance food stamps which do not have net food stamp income in excess of \$154.00 per month;

- B) All persons denied or terminated from State Transitional Assistance because they are employable; and

- C) All Earnfare participants shall be given a written notice at the time they leave the Earnfare program specifying when they will re-qualify.

- 2) The Illinois Department, comprehensive providers and participating downstate units shall make referrals to the Earnfare program as follows:

- A) Any person may request a referral.

- B) Exempt and nonexempt food stamp individuals and individuals not receiving food stamps who are non-custodial parents of AFDC children may be ordered by a court of competent jurisdiction to participate in the Earnfare component.

- C) Within 30 days after a request for an Earnfare referral:

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- i) persons who do not qualify for the Earnfare program shall be given or sent a notice informing them that they do not qualify and will not receive a referral;
- ii) persons who request a referral and who qualify for the Earnfare program shall be provided with a written document that acknowledges the request and informs the individual that he/she is qualified.
- 3) Within 30 days after notice of eligibility, individuals shall be assessed and referred to appropriate Earnfare slots, if slots are available.
- e) For the purposes of Earnfare, a "suitable" Earnfare slot must meet the following requirements:
 - 1) there are no questions as to the individual's ability to engage in such employment for medical reasons or because the individual has no way to get to or from the particular job;
 - 2) there are no questions of working conditions, such as risks to health, safety, or lack of worker's compensation protection;
 - 3) the individual may not be required, as a condition of employment, to join, resign from, or refrain from joining any legitimate labor organization;
 - 4) there is no unreasonable degree of risk to the individual's health and safety; and
 - 5) the individual is physically and mentally competent to perform the work.
- f) Individuals participating in Earnfare shall not displace or substitute for regular, full-time or part-time employees, regardless of whether the employee is currently working, on a leave of absence, or in a position or similar position where a layoff has taken place or the employer has terminated the employment of any regular employee or otherwise reduced its work force with the effect of filling the vacancy so created with an individual subsidized under this program, or is or has been involved in a labor dispute between a labor organization and the sponsor.

g) Entry into the Component

- 1) Individuals shall be referred to suitable Earnfare slots with local governmental units, not-for-profit community based and local organizations, other public agencies, including State agencies, and with private employers.
- 2) To the extent appropriate slots are available, individuals will be referred to suitable Earnfare activities based on an assessment of the individual's age, literacy, education, educational achievement, job training, work experience, and recent institutionalization, whenever these factors are known and are relevant to the individual's success in carrying out the assigned activities and in ultimately obtaining employment. The Department or the participating local governmental unit shall discuss with the individual available Earnfare assignments, together with any restrictions and qualifications the Earnfare

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employers have specified for the assignments. The individual's personal preferences for available Earnfare assignments and the individual's employment goals shall be ascertained and considered in making the Earnfare referral.

- 3) The Department, comprehensive providers and local governmental units shall maintain up-to-date public listings by area of Earnfare employers and current information regarding openings in those projects. These listings and the information shall be available to the public, in writing or by phone, during regular business hours.

h) Payments

- 1) Individuals participating in Earnfare shall engage in work equal to the amount of the food stamp benefits divided by the federal minimum wage and subsequently shall receive payment for each additional hour of performance in Earnfare activity, up to a maximum of \$231.00 per month. An individual is considered to have participated in Earnfare in any month he or she earns a payment. If a court of competent jurisdiction orders an individual to participate in the Earnfare program, hours engaged in employment-assigned activities multiplied by the minimum wage shall first be applied as a \$50.00 payment made to the custodial parent as a support obligation. If the individual receives food stamps, the individual shall engage in employment-assigned activities equal to the amount of the food stamp benefits divided by the federal minimum wage and subsequently shall earn minimum wage assistance for each additional hour of performance in Earnfare activity. The individual can earn a maximum of \$231.00 each month including the amount of the support obligation. Individuals will be assigned hours of Earnfare based upon their initial food stamp authorization amount. An individual living in a multi-person food stamp household shall be deemed to be receiving a per capita share of the household's food stamp allotment, for purposes of calculating the Earnfare hours. During an individual's Earnfare participation the Department or the local governmental unit shall alter the Earnfare hours each time the individual's monthly food stamp benefit changes by at least \$20.00, effective the same month as the change in the food stamp benefit. Individuals and contractors will be notified by the Department or the local governmental unit of the number of hours of work to be performed by an individual in Earnfare.
- 2) Individuals remain financially eligible for Earnfare and Earnfare job search activity so long as they receive food stamps. Receipt of food stamps is not an eligibility requirement of Earnfare when a court of competent jurisdiction orders an individual to participate who is a non-custodial parent of AFDC children.
- 3) The Department may pay participants directly or may contract for the Earnfare employer to pay the individual. Payments shall be made no less frequently than monthly. Individuals shall be paid

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only for the hours they have actually worked in excess of the food stamp hours of work obligation and if ordered by a court of competent jurisdiction in excess of food stamp hours and the support obligation.

- 4) Individuals shall be credited with hours of work that the Earnfare employer certifies them to have completed, according to criteria set forth in the contract with the Illinois Department, comprehensive providers or the local governmental unit. The Department, comprehensive providers or the local governmental unit staff shall attempt to resolve disputes between the Earnfare employer and the individual when there is disagreement over the number of hours worked. If the dispute cannot be resolved, the individual may utilize the Illinois Department's appeal process.
- 5) The Illinois Department or the provider shall, in advance, provide individuals participating in Earnfare who need transportation with the cost of transportation in getting to and from the Earnfare site and to Earnfare participants who are not in the job search component for specific job interviews arranged by their Earnfare employer. Individuals obtaining unsubsidized employment while participating in Earnfare may be eligible for initial employment expenses as stated in Section 121.188.
- 6) Participants in the Earnfare job search activity are eligible for employer contact related expenses not to exceed \$20.00 every 30 days for a maximum of two months in a 12 consecutive month period.
- 7) The Illinois Department will provide necessary clothing to enable participants to report to their Earnfare job site. Participants will be required to submit a written request for clothing needed.

i) Participation Requirements

- 1) Individuals may volunteer to participate in Earnfare and participation shall be limited to only six months out of any 12 consecutive month period except that court-ordered participants shall participate for six months unless the court orders participation for less than six months out of any 12 consecutive month period. Individuals participating in Earnfare shall engage in work equal to the amount of the food stamp benefits divided by the federal minimum wage and subsequently shall earn minimum wage assistance for each additional hour of work up to a maximum of \$231.00 per month. If a court of competent jurisdiction orders an individual to participate in the Earnfare program, hours engaged in employment-assigned activities multiplied by the minimum wage shall first be applied as a \$50.00 payment made to the custodial parent as a support obligation. If the individual receives food stamps, the individual shall engage in employment-assigned activities equal to the amount of the food stamp benefits divided by the federal minimum wage and subsequently shall earn minimum wage assistance for each hour of performance in Earnfare activity up to \$231.00 including the

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amount of the support obligation. Individuals participating in Earnfare first work the number of hours equal to food stamp benefits and subsequently earn financial assistance benefits.

- 2) Individuals are required to report as scheduled and on time to their Earnfare employer when notified of a referral. When they cannot report to their Earnfare assignment or if they will be late, they are to immediately notify their Earnfare employer.
- 3) If the individual demonstrates an inability to sustain the work that has been assigned and the Earnfare assignment was appropriate to the individual's abilities, the Illinois Department shall re-assess the individual and if appropriate shall refer the person to apply for Transitional Assistance or Interim Assistance and federal SSI benefits. If the person is ordered by a court of competent jurisdiction to participate in the Earnfare component, that person shall also be referred back to the court when unable to perform the work that has been assigned.
- 4) An individual may be dismissed by the employer from an Earnfare assignment prior to its completion. The Department, comprehensive providers or local governmental unit shall return an individual dismissed by an employer to the client pool. An individual dismissed by an employer shall be treated as a new program entrant for the purpose of Earnfare assignments. A dismissal from an Earnfare assignment shall not cause a food stamp sanction.
- 5) During Earnfare assignment, individuals are required to accept bona fide offers of suitable employment pursuant to Section 121.162(c)(4).
- 6) During the Earnfare assignment participants are required to apply for suitable jobs for which the provider makes a referral.
- 7) Earnfare clients may participate in a voluntary job search activity as resources permit. There are no sanctions for failure to comply. Earnfare clients may participate for two months in a 12 consecutive month period, either concurrently or following the six month eligibility period for Earnfare. Clients are required to make a minimum of 20 employer contacts each month while in the Earnfare job search activity.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 121.184 Sanctions

- a) An individual who fails to cooperate with the Food Stamp Employment and Training program without good cause and who fails to comply with the conciliation process shall be subject to Transitional Assistance sanction and/or food stamp disqualification. An individual ordered by a court of competent jurisdiction to participate in the Earnfare

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component who fails to cooperate shall be referred back to the court for failure to comply with the court order. Individuals who volunteer to participate in Earnfare or individuals ordered by a court of competent jurisdiction to participate are not subject to food stamp disqualifications for non-participation in Earnfare.

1) An individual who fails to cooperate with the requirements of the Food Stamp Employment and Training program shall be ineligible for Transitional Assistance for two months and/or shall be disqualified for food stamps for two months. The two month ineligibility and/or food stamp disqualification shall be ended early if the individual actually complies with the appropriate requirement or if the individual becomes exempt.

2) Transitional Assistance sanctions and/or food stamp disqualifications shall be imposed against those individuals who refuse or fail to participate without good cause in the Food Stamp Employment and Training program. (See Section 121.186 for good cause.)

b) Non-cooperation with the Food Stamp Employment and Training program includes one instance of any of the following:

- 1) refusal/failure to respond to a job referral;
- 2) refusal/failure to accept a bona fide offer of suitable employment (see Section 121.162(c)(4));
- 3) discontinuance of suitable employment (including quitting a job after placement and before cancellation) without good cause (see Section 121.162(d)(1));
- 4) reduction of suitable employment (for example, hours of employment) without good cause (see Section 121.162(d)(1)); or
- 5) use of a supportive service payment (see Section 121.188) for something other than the supportive service for which it was provided.

c) A Transitional Assistance sanction and/or food stamp disqualification will be imposed when an individual fails to comply, without good cause, with the following Food Stamp Employment and Training requirements on one occasion, unless otherwise indicated:

- 1) An individual fails, without good cause, or refuses to respond to a written notice for an appointment. If an individual arrives anytime within 30 minutes after the start of the scheduled meeting, the individual will be considered present. If an individual has good cause (see Section 121.186) for being more than 30 minutes late, the tardiness will be excused. The Food Stamp Employment and Training worker will include the individual in a scheduled group or other meeting or re-schedule the individual for another meeting;
- 2) An individual refuses to accept child care, transportation, family counseling or other social service or employment and training services such as testing or employment counseling without good cause, thereby precluding or interrupting participation or progress in the employability plan;

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- 3) An individual fails to cooperate in Job Search one time without good cause (see Section 121.182(g)). Each missed session is considered an instance of non-cooperation. Failure of an individual to make the required 20 employer contacts in a 30 day period shall result in a Transitional Assistance sanction and/or a food stamp disqualification (see Sections 121.162(c)(2));
- 4) Individuals assigned to participate in an Education or a Training component activity must maintain a satisfactory level of attendance as established by the education or training facility. However, failure to attend training or education classes three times in a 30 day period without good cause shall result in a Transitional Assistance sanction and/or food stamp disqualification (see Section 121.186); and
- 5) Failure of an individual to attend training, without good cause, as specified for the Training component shall result in a sanction.

d) A Transitional Assistance sanction and/or food stamp disqualification shall be imposed only on a nonexempt individual.

e) No Transitional Assistance sanction or food stamp disqualification will be imposed until Food Stamp Employment and Training staff has sent the individual a written notice scheduling a conciliation meeting and the individual has not shown good cause for non-cooperation and has either failed to attend the meeting without good cause or failed to complete the conciliation process (see Section 121.190). The written notice shall explain the purpose of the appointment and the consequences for failure to attend or failure to show good cause and shall include a definition of good cause. Failure of the mandatory registrant to appear for the scheduled meeting is not considered an instance of non-cooperation.

f) A Transitional Assistance sanction and/or food stamp disqualification shall be rescinded at any level of the Transitional Assistance sanction and/or food stamp disqualification process up through and until the final agency decision, including any appeal hearing, even if not previously mentioned, if the individual establishes good cause (see Section 121.186 for good cause criteria).

g) The notice of change form issued for a Transitional Assistance sanction and/or food stamp disqualification shall include the following:

- 1) a description of the acts of non-cooperation with the Food Stamp Employment and Training program, including dates where applicable;
- 2) a statement that the individual's acts were without good cause (see Section 121.186 for good cause criteria) and if the individual provided a good cause reason it must state why the reason was rejected and that the individual failed to successfully complete the conciliation process; and
- 3) the following statement: "You will be sanctioned until (last day of sanction period) or until you comply with the appropriate

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program requirement or become exempt. In order for Transitional Assistance and Food Stamp Assistance to be restored at the end of the financial sanction and/or food stamp disqualification period with no further gap in assistance, you must file an application for Transitional Assistance and/or Food Stamp Assistance between (date) and (date). If you apply later than (date), there may be a further gap in assistance."

(Source: Amended at 19 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Number: Proposed Action:
140.461 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, par. 12-13) (305 ILCS 5/12-13)
- 5) Complete Description of the Subjects and Issues Involved: These proposed amendments comply with Section 4602 of the Omnibus Budget Reconciliation Act of 1990 (OBRA 90), which requires states to receive and initially process Medicaid applications from low income pregnant women and children under the age of 19, at locations other than local Public Aid offices. Such a site is referred to as an outstation.

This federal mandate will be met under these proposed amendments through the use of some federally qualified health centers (FQHC) in urban areas with heavy Medicaid populations, where this practice will be cost beneficial to the State. In areas where maintaining outstation workers would not be cost effective, the local Public Aid office will continue to be the application site.

The FQHCs, which will provide outstation eligibility staff to accept and assist in the initial processing of Medicaid DPA 2378MC applications for pregnant women and children, will forward the completed applications to the appropriate local Public Aid offices. Initial processing will include accepting and completing applications, providing information and referrals, obtaining required documentation to complete the application process, assuring that the information contained on the application forms is complete and conducting any necessary interviews. Neither the FQHCs nor the outstation workers shall evaluate the information contained in the applications, nor make determinations of eligibility or ineligibility. The local Public Aid office is responsible for those functions.

These proposed amendments are not expected to result in any budgetary changes. FQHC intake staff costs are included in an all inclusive cost report that is submitted to the Department.

- 6) Will these proposed amendments replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No

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9) Are there any other proposed amendments pending on this Part? Yes

Sections	Proposed Action	Illinois Register Citation
140.27	Amendment	May 5, 1995 (19 Ill. Reg. 6268)
140.80	Amendment	March 17, 1995 (19 Ill. Reg. 3248)
140.80	Amendment	March 24, 1995 (19 Ill. Reg. 4337)
140.82	Amendment	March 17, 1995 (19 Ill. Reg. 3248)
140.82	Amendment	March 24, 1995 (19 Ill. Reg. 4337)
140.84	Amendment	March 17, 1995 (19 Ill. Reg. 3248)
140.84	Amendment	March 24, 1995 (19 Ill. Reg. 4337)
140.642	Amendment	April 14, 1995 (19 Ill. Reg. 5397)

10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

11) Time, Place, and Manner in which Interested Persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to Joanne Jones, Bureau of Rules and Regulations, Illinois Department of Public Aid, 100 South Grand Ave., 3rd Floor, Springfield, Illinois 62762 (Phone: (217) 524-3215). The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

These proposed amendments may have an impact on small businesses, small municipalities, and not for profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not for profit corporations as part of any written comments they submit to the Department.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Federally Qualified Health Centers
- B) Reporting, bookkeeping or other procedures required for Compliance: None
- C) Types of professional skills necessary for compliance: None

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- 13) State reasons for this rulemaking if it was not included in either of the two most recent regulatory agendas: The reasons for this rulemaking are fully described above in the complete description of the subjects and issues involved. This rulemaking was inadvertently omitted when the most recent regulatory agenda was published.

The full text of the Proposed Amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMS

PART 140
MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

- Section
140.1 Incorporation By Reference
140.2 Medical Assistance Programs
140.3 Covered Services Under The Medical Assistance Programs for AFDC, AFDC-WANG, AABD, AABD-MANG, RRP, Individuals Under Age 18 Not Eligible for AFDC, Pregnant Women Who Would Be Eligible if the Child Were Born and Pregnant Women and Children Under Age Eight Who Do Not Qualify as Mandatory Categorically Needy and Disabled Persons Under Age 21 Who May Qualify for Medicaid and In-Home Care (Model Waiver) Covered Medical Services Under AFDC-WANG for non-pregnant persons who are 18 years of age or older (Repealed)
140.4 Covered Medical Services Under GA
140.5 Medical Services Not Covered
140.6 Medical Assistance Provided to Individuals Under the Age of Eighteen
140.7 Who Do Not Qualify for AFDC and Children Under Age Eight
140.8 Medical Assistance For Qualified Severely Impaired Individuals
140.9 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-WANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
140.10 Medical Assistance Provided to Incarcerated Persons

SUBPART B: MEDICAL PROVIDER PARTICIPATION

- Section
140.11 Enrollment Conditions for Medical Providers
140.12 Participation Requirements for Medical Providers
140.13 Definitions
140.14 Denial of Application to Participate in the Medical Assistance Program
140.15 Recovery of Money
140.16 Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
140.18 Effect of Termination on Individuals Associated with Vendor
140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring
140.20 Submittal of Claims
140.21 Covered Medicaid Services for Qualified Medicare Beneficiaries (QMBs)

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- 140.22 Magnetic Tape Billings
140.23 Payment of Claims
140.24 Payment Procedures
140.25 Overpayment or Underpayment of Claims
140.26 Payment to Factors Prohibited
140.27 Assignment of Vendor Payments
140.28 Record Requirements for Medical Providers
140.30 Audits
140.31 Emergency Services Audits
140.32 Prohibition on Participation, and Special Permission for Participation
140.33 Publication of List of Terminated, Suspended or Barred Entities
140.35 False Reporting and Other Fraudulent Activities
140.40 Prior Approval for Medical Services or Items
140.41 Prior Approval in Cases of Emergency
140.42 Limitation on Prior Approval
140.43 Post Approval for Items or Services When Prior Approval Cannot Be Obtained
140.71 Reimbursement for Medical Services Through the Use of a C-13 Invoice
140.72 Voucher Advance Payment and Expedited Payments
140.73 Drug Manual (Recodified)
Drug Manual Updates (Recodified)

SUBPART C: PROVIDER ASSESSMENTS

- Section
140.80 Hospital Provider Fund
140.82 Developmentally Disabled Care Provider Fund
140.84 Long Term Care Provider Fund
140.94 Medicaid Developmentally Disabled Provider Participation Fee Trust Fund
140.95 Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
140.96 Hospital Services Trust Fund
140.97 General Requirements (Recodified)
140.97 Special Requirements (Recodified)
140.98 Covered Hospital Services (Recodified)
140.99 Hospital Services Not Covered (Recodified)
140.100 Limitation On Hospital Services (Recodified)
140.101 Transplants (Recodified)
140.102 Heart Transplants (Recodified)
140.102 Liver Transplants (Recodified)
140.103 Bone Marrow Transplants (Recodified)
140.104 Disposition of State Hospital Admissions (Recodified)
140.110 Payment for Outpatient Services for SA (Recodified)
140.116 Hospital Outpatient and Clinic Services (Recodified)
140.117 Payment for Hospital Services During Fiscal Year 1982 (Recodified)
140.200 Payment for Hospital Services Prior June 30, 1982 (Repealed)
140.201 Payment for Hospital Services During Fiscal Year 1983 (Recodified)
140.202 Limits on Length of Stay by Diagnosis (Recodified)
140.203

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140.300	Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
140.350	Copayments (Recodified)
140.360	Payment Methodology (Recodified)
140.361	Non-Participating Hospitals (Recodified)
140.362	Pre July 1, 1989 Services (Recodified)
140.363	Post June 30, 1989 Services (Recodified)
140.364	Prepayment Review (Recodified)
140.365	Base Year Costs (Recodified)
140.366	Restructuring Adjustment (Recodified)
140.367	Inflation Adjustment (Recodified)
140.368	Volume Adjustment (Repealed)
140.369	Groupings (Recodified)
140.370	Rate Calculation (Recodified)
140.371	Payment (Recodified)
140.372	Review Procedure (Recodified)
140.373	Utilization (Repealed)
140.374	Alternatives (Recodified)
140.375	Exemptions (Recodified)
140.376	Utilization, Case-Mix and Discretionary Funds (Repealed)
140.390	Subacute Alcoholism and Substance Abuse Services (Recodified)
140.391	Definitions (Recodified)
140.392	Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
140.394	Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
140.396	Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)
140.398	Hearings (Recodified)
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Section	
140.400	Payment to Practitioners, Nurses and Laboratories
140.410	Physicians' Services
140.411	Covered Services By Physicians
140.412	Services Not Covered By Physicians
140.413	Limitation on Physician Services
140.414	Requirements for Prescriptions and Dispensing of Pharmacy Items - Physicians
140.416	Optometric Services and Materials
140.417	Limitations on Optometric Services
140.418	Department of Corrections Laboratory
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AUTHORITY: Implementing Article III of the Illinois Health Finance Reform Act (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 6503-1 et seq.) [20 ILCS 2215/Art. III] and implementing and authorized by Articles III, IV, V, VI, VII and Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, pars. 3-1 et seq., 4-1 et seq., 5-1 et seq., 6-1 et seq., 7-1 et seq., and 12-13) (305 ILCS 5/Arts. III, IV, V, VI, VII, and 12-13).

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 9, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 3, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13343, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Reg. 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 18151, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 18151, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 21,

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1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 111, effective May 13, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11638, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14721, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 1795, effective September 30, 1987; amended at 11 Ill. Reg. 18896, effective October 27, 1987; amended at 11 Ill. Reg. 20009, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1460, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246,

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I effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.Table H and 140.Table I reclassified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 144.440, 940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1998, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 13 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 33241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for

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effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; emergency amendment suspended effective October 12, 1993; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended, effective November 15, 1994; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. _____, effective June 5, 1995; amended at 19 Ill. Reg. _____, effective _____.

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section 140.461 Clinic Participation, Data and Certification Requirements

- a) Hospital-based organized clinics must:
 - 1) Have an administrative structure, staff program, physical setting, and equipment to provide comprehensive medical care;
 - 2) Agree to assume complete responsibility for diagnosis and treatment of the patients accepted by the clinic, or provide, at no additional cost to the Department, for the acquisition of these services through contractual arrangements with external medical providers;
 - 3) Be adjacent to or on the premises of the hospital and be licensed under the Hospital Licensing Act or the University of Illinois Hospital Act; and
 - 4) Meet the applicable requirements of 89 Ill. Adm. Code 148.40(d).
- b) Encounter rate clinics must be presently participating in the Medical Assistance Program. Individual practitioners associated with such centers may apply for participation in the Medical Assistance Program in their individual capacities. In order to participate in the Healthy Moms/Healthy Kids Program, as described in Subpart G, encounter rate clinics shall be required to meet the additional participation requirements described in Section 140.924(a)(2)(B).
- c) Rural health clinics must be certified by Social Security Administration as meeting the requirements for Medicare participation.
- d) Federally Qualified Health Centers (FQHC):
 - 1) Must be Health Centers which:

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- A) receive a grant under Section 329, 330 or 340 of the Public Health Service Act; or
- B) based on the recommendation of the Health Resources and Services Administration within the Public Health Service, are determined to meet the requirements for receiving such a grant.
- 2) In order to participate in the Healthy Moms/Healthy Kids Program, as described in Subpart G, FQHC's shall be required to meet the additional participation requirements described in Section 140.924(a)(2)(A).
- 3) Section 4602 of the Omnibus Budget Reconciliation Act of 1990 (OBRA 90), which amended Section 1902(a)(55) of the Social Security Act (42 U.S.C. Section 1396a(a)(55)), requires states to receive and initially process Medicaid applications from low-income pregnant women and children under the age of 19 at locations other than the local Public Aid office. Such a site is referred to as an outstation.
- A) Outstations will be located at those FQHCs which the Department determines serve heavy Medicaid populated urban areas. For areas in which the Department determines that maintaining outstation workers is not economical, the local Public Aid office will continue to be the application location.
- B) The FQHCs, which will provide outstation eligibility staff to accept and assist in the initial processing of the Medicaid DPA 2378MC application for pregnant women and children, will forward the completed application to the appropriate IDPA local office. Initial processing means accepting and completing the application, providing information and referrals, obtaining required documentation, to complete processing of the application, assuring that the information contained on the application form is complete and conducting any necessary interviews. Neither the FQHCs nor the outstation workers will evaluate the information contained on the application, nor make any determination of eligibility or ineligibility. The IDPA local office is responsible for these functions.
- C) Costs allowable under the federal outstation mandate for completing form DPA 2378MC will be itemized in Section B of Schedule I of the FQHC Medicaid cost report and will be provided annually in the FQHC cost reporting process. These allowable costs will be collected, computed and calculated, and will result in the establishment of an outstation administrative rate and a projected rate. The administrative costs are:
 - i) Salary of outstation worker;
 - ii) Fringe benefits;
 - iii) Training.

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- iv) Travel; and
v) Supplies.

D) FQHC outstation workers will be trained by the Department before they begin to perform eligibility processing functions.

E) FQHCs must have adequate staff trained with proper backup to accommodate unforeseen problems. FQHCs must be able to meet the demand of this initiative, either using staff at one location or rotating staff as dictated by workload or staffing availability. The FQHC must have staff available at each outstation location during regular office operating hours.

F) Outstation intake staff may perform other FQHC intake processing functions, but the time spent on outstation activities must be documented and must be identifiable for cost reporting and auditing purposes.

G) The FQHC must display a notice in a prominent place at the outstation location advising potential applicants of the times that outstation intake workers will be available. The notice must include a telephone number that applicants may call for assistance.

H) The FQHC must comply with federal and State laws and regulations governing the provision of adequate notice to persons who are blind or deaf or who are unable to read or understand the English language.

e) Individual practitioners associated with such centers may apply for participation in the Medical Assistance Program in their individual capacities.

f) Healthy Moms/Healthy Kids Managed Care Clinics

1) Types of Clinics

A) Certified Hospital Ambulatory Primary Care Centers (CHAPCC), which are hospital-based organized outpatient clinics, as described in subsection (a) above, meeting the participation, data and certification requirements described in subsections (f)(2) through (f)(5) below, which, through staff and supporting resources, provide ambulatory primary care to Medicaid children from birth through 20 years of age, and pregnant women in a non-emergency room setting. At least 50% of all staff physicians providing care in a CHAPCC must routinely provide obstetric, pediatric, internal medicine, or family practice care in the clinic setting, and at least 50% of patient visits to the CHAPCC must be for primary care.

B) Certified Hospital Organized Satellite Clinics (CHOSC), which are clinics meeting the participation, data and certification requirements described in subsections (f)(2) through (f)(5) below, that are owned, operated, and/or

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managed by a hospital but do not qualify as hospital-based organized clinics, as described in subsection (a) above, because they are not located adjacent to or on the premises of the hospital or are not licensed under the Hospital Licensing Act or the University of Illinois Hospital Act. Through staff and supporting resources, these clinics provide ambulatory primary care in a non-emergency setting to Medicaid children from birth through 20 years of age, and to pregnant women. At least 50% of all staff physicians providing care in a CHOSC must routinely provide obstetric, pediatric, internal medicine, or family practice care in the clinic setting, and at least 50% of patient visits to the CHOSC must be for primary care. Primary care consists of basic health services provided by a physician or other qualified medical professional to maintain the day-to-day health status of a patient, without requiring the level of medical technology and specialized expertise necessary for the provision of secondary and tertiary care.

C) Certified Obstetrical Ambulatory Care Centers (COBACC), which are hospital-based organized clinic entities, as described in subsection (a) above, meeting the participation, data and certification requirements described in subsections (f)(2) through (f)(5) below, which, through staff and supporting resources, provide primary care and specialty services to Medicaid-eligible pregnant women, especially those determined to be non-complaint or at high risk, in an outpatient setting.

D) Certified Pediatric Ambulatory Care Centers (CPACC), which are hospital-based organized clinic entities, as described in subsection (a) above, meeting the participation, data and certification requirements described in subsections (f)(2) through (f)(5) below, that, through staff and supporting resources, provide pediatric primary care and specialty services to Medicaid enrolled children with specialty needs, as described in Section 140.462(e)(3)(C), from birth through 20 years of age in an outpatient setting. Hospitals with CPACC's must also provide primary care for at least 1,500 children, not eligible for enrollment in the CPACC, as part of a CHAPCC, as described in subsection (f)(1)(A) above, or an encounter rate clinic, as described in Section 140.461(b) and Section 140.924(a)(2)(B). Hospitals unable to meet this volume requirement must agree to serve as a specialty referral site for another hospital operating a CPACC through a written agreement submitted to the Department.

2) General Participation Requirements
In addition to the Healthy Moms/Healthy Kids provider participation requirements described in Section 140.924(a)(1), the Healthy Moms/Healthy Kids managed care clinics identified in

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subsection (f)(1) above must:

- A) Provide managed care to clients, as described in Section 140.922(b)(1);
- B) Be operated by a disproportionate share hospital, as described in 89 Ill. Adm. Code 148.120, be staffed by board certified/eligible physicians who have hospital admitting and/or delivery privileges, be operated by a hospital in an organized corporate network of hospitals having a total of more than 1,000 staffed beds, and agree to provide care for a minimum of 100 Healthy Moms/Healthy Kids clients; or be a primary care teaching site of an organized academic department of:
 - i) In the case of clinics described in subsections (f)(1)(A) and (f)(1)(B) above, a pediatric or family practice residency program accredited by the American Accreditation Council for Graduate Medical Education.
 - ii) In the case of clinics described in subsection (f)(1)(C) above, an obstetrical residency program accredited by the American Accreditation Council for Graduate Medical Education with at least 130 full-time equivalent residents.
 - iii) In the case of clinics described in subsection (f)(1)(D) above, a pediatric or family practice residency program accredited by the American Accreditation Council for Graduate Medical Education with at least 130 full-time equivalent residents;
- C) Under the direction of a board certified/eligible physician who has hospital admitting and/or delivery privileges and provides direct supervision to residents practicing in the certified ambulatory site, provide:
 - i) In the case of clinics described in subsections (f)(1)(A) and (f)(1)(B) above, primary care.
 - ii) In the case of clinics described in subsection (f)(1)(C) above, obstetric and specialty services.
 - iii) In the case of clinics described in subsection (f)(1)(D) above, primary care and specialty services;
- D) Maintain a formal, ongoing quality assurance program that meets the minimum standards of the Joint Commission on Accreditation of Health Care Organizations (JCAHO);
- E) Provide historical evidence of fiscal solvency and financial projections for the future, in a manner specified by the Department;
- F) Utilize a formal client tracking and care management system that affords timely maintenance of, access to, and continuity of medical records without compromising client confidentiality; and
- G) In accordance with the terms of the Department's Healthy Moms/Healthy Kids program manual and provider agreement for

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the applicable Healthy Moms/Healthy Kids managed care clinic identified in subsection (f)(1) above, provide specific Healthy Moms/Healthy Kids client assignment capacity proposals to the Department and agree to accept site-specific enrollment and primary care practitioner responsibility for a specified minimum number of:

- i) In the case of clinics described in subsections (f)(1)(A) and (f)(1)(B) above, clients assigned by the Department or its agent.
 - ii) In the case of clinics described in subsection (f)(1)(C) above, high risk and/or non-compliant pregnant women assigned by the Department or its agent.
 - iii) In the case of clinics described in subsection (f)(1)(D) above, children assigned by the Department or its agent.
- 3) Special Participation Requirements
- In addition to the Healthy Moms/Healthy Kids provider participation requirements described in Section 140.924(a)(1), and the general participation requirements described in subsection (f)(2) above, special participation requirements shall apply as follows:
- A) Clinics described in subsections (f)(1)(A) and (f)(1)(B) above must:
 - i) Serve a total population that includes at least 20% Medicaid and medically indigent clients;
 - ii) Perform a risk assessment on pregnant women assigned to them in order to determine if the woman is at high risk; and
 - iii) Provide or arrange for specialty services when needed by Healthy Moms/Healthy Kids clients.
 - B) Clinics described in subsection (f)(1)(C) must:
 - i) Be a distinct department of a hospital that also operates as a Level II or Level III perinatal center;
 - ii) Provide services to pregnant women demonstrating the need for extensive health care services due to complicated medical conditions placing them potentially at high risk of abnormal delivery, including substance abuse or addiction problems. Hospital clinics will not qualify to participate unless they provide both primary and specialty services to each Medicaid and Medicaid-eligible woman who receives services at the COBACC; in this capacity, COBACC's, as perinatal centers, shall also agree to accept assignment of pregnant women determined to be at high risk of abnormal delivery;
 - iii) Operate a designated 24-hour per day emergency referral site with a defined practice for the care of

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- obstetric emergencies;
- iv) Have an established program of services for the treatment of substance-abusing pregnant women;
 - v) Integrate an accredited obstetrical residency program with subspecialty residency programs to encourage future physicians to devote part of their professional services to disadvantaged and underserved high-risk pregnant women; and
 - vi) Operate organized ambulatory clinics for children that are easily accessible to the medically underserved.
- C) Clinics described in subsection (f)(1)(D) above must:
- i) Provide primary and specialty services for children demonstrating the need for extensive health care services due to a chronic condition as described in Section 140.462(e)(3)(C). CPACC's shall not enroll children who receive specialty services from the CPACC entity but receive primary care outside the CPACC, and do not have a diagnosed condition contained in, but not limited to, those listed in Section 140.462(e)(3)(C) requiring specialty services unless the child is the sibling of a CPACC-eligible or enrolled individual;
 - ii) Operate a designated 24-hour per day emergency referral site with a defined practice for the care of pediatric emergencies;
 - iii) Provide access to necessary pediatric primary and specialty services within 24 hours after referral;
 - iv) Be a distinct department of a Disproportionate Share Hospital (DSH), as described in 89 Ill. Adm. Code 148.120(a)(5);
 - v) Integrate an accredited pediatric or family practice residency program with subspecialty residency programs to encourage future physicians to devote part of their professional services to disadvantaged and underserved children with specialty needs; and
 - vi) Operate organized ambulatory clinics for children that are easily accessible to the medically underserved.
- 4) Data Requirements
- The Healthy Moms/Healthy Kids managed care clinics described in subsection (f)(1) above shall be required to submit patient level historical data to the Department, which may include, but shall not be limited to historical data on the use of the hospital emergency room department.
- 5) Certification Requirements
- Certification of qualifying status of a Healthy Moms/Healthy Kids managed care clinic identified in subsection (f)(1) above shall occur annually during the first two years of participation and every other year thereafter. In addition:

- A) The certification process shall consist of a review of the completed application and related materials to determine provisional certification status. Those centers submitting approved applications shall then be reviewed on-site by Department staff within 60 days after application approval. Final notification of certification status shall be rendered within 30 days after the site review, pending provider submittal of a written plan of correction for any deficiencies discovered during the entire application process.
- B) Entities interested in becoming a Healthy Moms/Healthy Kids managed care clinic must direct a written request for an application packet to the following address:
Managed Care Clinic Certification
Bureau of Hospital Services
Illinois Department of Public Aid
201 South Grand Avenue East, Concourse
Springfield, Illinois 62763-0001
- C) Certification status shall be suspended for Healthy Moms/Healthy Kids managed care clinics identified in subsection (f)(1) above that do not submit data to the Department, as required under subsection (f)(4) above, within 180 days after the Department's request for the submittal of such data.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

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- 1) Heading of Part: Rates To Be Charged By Official Testing Stations For School Buses

2) Code Citation: 92 Ill. Adm. Code 446

3) Section Numbers:

446.102	Amend
446.103	Amend
446.104	Amend
446.106	Amend
446.302	Amend
446.306	Amend
446.402	Amend
446.502	Amend
446.602	Amend

- 4) Statutory Authority: Implementing and authorized by Section 13-106 of the Illinois Vehicle Inspection Law [625 ILCS 5/13-106].

- 5) A complete description of the subjects and issues involved:

By this Notice of Proposed Amendments, the Department proposes to update statutory citations to correctly reference the Illinois Compiled Statutes. Additionally, the Department is revising the name and address of the Division's Bureau of Safety Programs, Commercial Vehicle Safety Section. The Department is also correcting definitions in Section 446.104, Definitions, and is alphabetizing the counties listed in Section 446.402, Rates or Charges, and adding three counties which were not previously listed in this Section.

Primarily, this rulemaking amends Section 446.502, Notice and Place of Hearing, to provide a new administrative hearing location at the Department's offices in Carbondale, Illinois. This new hearing location is more convenient for those Official Testing Station owners operating in the southern part of the State. Upon adoption of this rulemaking, these station owners will no longer be required to travel to Springfield for an administrative hearing.

- 6) Will this proposed rulemaking replace an emergency rule currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this proposed amendment contain incorporations by reference? No

- 9) Are there any other amendments pending on this part? No

- 10) Statement of Statewide Policy Objectives: This part affects units of local government which own or operate Official School Bus Testing Stations

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in southern Illinois.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

By U.S. Mail:

Ms. Cathy Allen, Regulations Unit
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212
(217) 785-1135

By Messenger or Inter-Agency Mail:

DOT Annex Building
3215 Executive Park Drive
Commercial Vehicle Safety; 3rd Floor
Springfield, Illinois

Comments received within forty-five days of the date of publication of this Illinois Register will be considered. Comments received after that time will be considered, time permitting.

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: This rulemaking affects small businesses which own or operate Official School Bus Testing Stations in southern Illinois.

B) Reporting, bookkeeping or other procedures required for compliance: No new or additional reporting or recordkeeping requirements are necessary for compliance with this rulemaking.

C) Types of professional skills necessary for compliance: No new or additional professional skills are necessary for compliance with this rulemaking.

- 13) State reason(s) for this rulemaking if it was not included in either of the two (2) most recent regulatory agendas: This rulemaking was included in the January 1995 regulatory agenda.

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION

CHAPTER I: DEPARTMENT OF TRANSPORTATION

SUBCHAPTER e: TRAFFIC SAFETY (EXCEPT HAZARDOUS MATERIALS)

PART 446

RATES TO BE CHARGED BY OFFICIAL TESTING
STATIONS FOR SCHOOL BUSES

SUBPART A: RULES OF GENERAL APPLICABILITY

Section

446.101 General Information

446.102 Information: Special Instructions

446.103 Communications and Pleadings

446.104 Definitions

446.105 Rules of Construction

446.106 Regulatory Dockets

446.107 Appearances

SUBPART B: DOCUMENT SPECIFICATIONS GENERALLY

Section

446.201 Typographical Specifications

446.202 Copies

446.203 Time

446.204 Service

SUBPART C: RULES FOR FILING AND APPROVAL OF RATES AND CHARGES

Section

446.301 General Requirements

446.302 Application for Rate Approval

446.303 Initial Application Review

446.304 Processing of Application

446.305 Withdrawal

446.306 Application for Rate Change

446.307 Appeal

SUBPART D: LEVEL OF RATES OR CHARGES

Section

446.401 General Requirements

446.402 Rates or Charges

446.403 Enforcement

SUBPART E: HEARINGS ON PETITIONS FOR APPROVAL
OF DISALLOWED RATES AND APPEALS

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Section

446.501 Request for Hearing

446.502 Notice and Place of Hearing

446.503 Hearings

446.504 Presiding Officer's Decision

446.505 Appeal

SUBPART F: COMPLAINTS OF UNREASONABLE OR UNJUST RATES

Section

446.601 Notice

446.602 Complaints

446.603 Reply

446.604 Request for Hearing

446.605 Hearing

446.606 Presiding Officer's Decision

446.607 Appeal

SUBPART G: MISCELLANEOUS PROVISIONS

Section

446.701 Discovery

446.702 Motions

446.703 Intervention

AUTHORITY: Implementing and authorized by Section 13-106 of the Illinois Vehicle Inspection Law [625 ILCS 5/13-106].

SOURCE: Adopted at 6 Ill. Reg. 1291, effective February 1, 1982; codified at 6 Ill. Reg. 14689; amended at 19 Ill. Reg. _____ effective _____.

SUBPART A: RULES OF GENERAL APPLICABILITY

Section 446.102 Information; Special Instructions

Information as to procedure under the rules in this Part ~~part~~ and instructions supplementing this Part ~~these rules~~ in special instances, will be furnished upon written application to the Director, Division of Traffic Safety, Illinois Department of Transportation, 3215 Executive Park Drive, P.O. Box 19212, ~~2300 South-Bittsen-Parkway~~ Springfield, Illinois 62791-9212. ~~62764~~.

(Source: Amended at 19 Ill. Reg. _____, effective _____.)

Section 446.103 Communications and Pleadings

a) How addressed. All communications and pleadings should, unless

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otherwise specifically directed, be addressed and submitted to: Director, Division of Traffic Safety, Illinois Department of Transportation, 3215 Executive Park Drive, P.O. Box 19212, 2980-South Broken-Parkway Springfield, Illinois 62794-9212. 62764- A communication should clearly designate the docket number, if any, and short title of any proceeding to and about which it is directed. The person communicating shall state his address, and the party he represents.

- b) Timely Filing Required. All documents required or permitted to be filed under this Part ~~these Rules~~ must be received for filing at the offices of the Department's Division of Traffic Safety in Springfield, Illinois, within the time limits for such filing. The date of receipt at the Department and not the date of deposit in the mail is determinative, provided, however, that if such document is mailed by certified, registered, or express mail postmarked at least two days prior to the due date, it will be accepted as timely filed.
- c) Disposition of When Defective. In any proceeding when upon inspection the Department is of the opinion that a document tendered for filing does not comply with this Part ~~these Rules~~ or does not sufficiently set forth material required by any form of the Department, the Department may decline to accept the document for filing and may return it unfiled or the Department may accept it for filing and advise the person tendering it of the deficiency and require that the deficiency be corrected.

(Source: Amended at 19 Ill. Reg. _____, effective _____.)

Section 446.104 Definitions

As used in this Part ~~these Rules~~:

"Code" means the Illinois Vehicle Code [625 ILCS 5].

"Department" means the Illinois Department of Transportation;

"Department" means the Department of Transportation of the State of Illinois, acting directly or through its authorized agents, or officers. (Section 13-100 of the Code)

"Director" means the Director of the Division of Traffic Safety of the Illinois Department of Transportation;

"Division" means the Division of Traffic Safety of the Illinois Department of Transportation;

"Illinois Vehicle Code" means the provisions of Chapter 45, 1/2 of the Illinois Revised Statutes as now or hereafter amended;

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"Official Testing Station" means all contiguous real and personal property which houses the testing lane(s) and all equipment and supplies relating to the vehicle safety test program;

"Person" means any person as defined in Section 1-159 of the Illinois Vehicle Code;

"Rate" or "Charge" means the monetary charge to any person offering a school bus for a safety test pursuant to Section 13-106 of the Illinois Vehicle Code;

"Safety test" means the test required by Section 13-101 of the Illinois Vehicle Code;

"School bus" means every motor vehicle, except as provided below owned or operated by or for any of the following entities for the transportation of persons regularly enrolled in any such entity as students in grade 12 or below in connection with any activity of the entity, a school operated by a religious institution or a public or private nursery, primary or secondary school; this definition does not include the following:

a bus operated by a public utility, municipal corporation or common carrier authorized to conduct local or interurban transportation of passengers when the bus is on a regularly scheduled route for the transportation of other fare-paying passengers or furnishing charter service for the transportation of groups on field trips or other special trips or in connection with special events or for shuttle service between attendance centers or other educational facilities and not over a regular customary school bus route; a motor vehicle of the First Division as defined in Section 1-217 of the Illinois Vehicle Code or a religious organization bus as defined in Section 1-218-1 of the Illinois Vehicle Code;

Every motor vehicle, except as provided below, owned or operated by or for any of the following entities for the transportation of persons regularly enrolled as students in grade 12 or below in connection with any activity of such entity:

Any public or private primary or secondary school;

Any primary or secondary school operated by a religious institution; or

Any public, private or religious nursery school.

This definition shall not include the following:

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A bus operated by a public utility, municipal corporation or common carrier authorized to conduct local or interurban transportation of passengers when such bus is not traveling a specific school bus route but is:

On a regularly scheduled route for the transportation of other fare paying passengers;

Furnishing charter service for the transportation of groups on field trips or other special trips or in connection with other special events; or

Being used for shuttle service between attendance centers or other educational facilities.

A motor vehicle of the first division. (Section 1-182 of the Code)

"Secretary" means the Secretary of the Illinois Department of Transportation.

"Section" means the Commercial Vehicle Safety Section Vehicle Inspection--Section of the Bureau of Safety Programs Operations of the Division of Traffic Safety of the Illinois Department of Transportation.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 446.106 Regulatory Dockets

- Information and data relating to Department actions pursuant to this Part are maintained by the Bureau of Safety Programs Operations, Division of Traffic Safety, Illinois Department of Transportation, 3215 Executive Park Drive, P. O. Box 19212, 3300-South-Dirksen-parkway, Springfield, Illinois 62794-9212. 627647
- Any person may examine and copy any docketed material at the offices of the Division during regular business hours.

SUBPART C: RULES FOR FILING AND APPROVAL OF RATES AND CHARGES

Section 446.302 Application for Rate Approval

- Every operator of a currently licensed school bus Official Testing Station must file with the Department, within 60 days of the effective date of this Part Rule, a schedule of all rates and charges intended to be made by him for performing a safety test on school buses and for which he seeks the approval of the Department. Each application for

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approval shall be submitted on the form provided by the Department by mailing or delivering that form to: Commercial Vehicle Safety Vehicle Inspection Section, Illinois Department of Transportation, 3215 Executive Park Drive, P. O. Box 19212, 3300-West-Washington-Street7 P-07-Box-4669 Springfield, Illinois 62794-9212 62768.

- Each applicant for an Official Testing Station Permit shall file with the Department a proposed schedule of all rates and charges intended to be made by him for performing a safety test on school buses and for which he seeks the approval of the Department. Each application made under this paragraph shall be filed by the applicant with his application for a station permit pursuant to 92 Ill. Adm. Code 451 - Administrative Requirements ~~the Department's Rules and Regulations~~ for Official Testing Stations. The applicant shall submit his proposed schedule on the form provided by the Department by mailing or delivering that form to: Commercial Vehicle Safety Vehicle Inspection Section, Illinois Department of Transportation, 3215 Executive Park Drive, P. O. Box 19212, 3300-West-Washington-Street7-Post-Office-Box 4669 Springfield, Illinois 62794-9212. 627688.
- A schedule of rates and charges filed with the Department under subsections paragraphs (a) and (b) of this Section shall include an amount to reimburse the operator of an Official Testing Station for the purchase from the Department of the Certificate of Safety required by Section 13-109 of the Illinois Vehicle Code, which amount shall not exceed the fee paid by the operator to the Department for the certificate.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 446.306 Application for Rate Change

- Any operator of an Official Testing Station who desires to change his schedule of rates and charges filed with and approved by the Department shall file with the Department the new schedule of rates and charges proposed to be made by him for performing a safety test on school buses.
- Applications under subsection paragraph (a) of this Section shall be submitted on the form provided by the Department by mailing or delivering that form to: Commercial Vehicle Safety Vehicle Inspection Section, Illinois Department of Transportation, 3215 Executive Park Drive, P. O. Box 19212, 3300-West-Washington-Street7 Post-Office-Box-4669 Springfield, Illinois 62794-9212. 627688.
- Applications under this Section shall initially be reviewed as provided in Section 446.303 and processed as provided in Section 446.304.
- Withdrawals of applications under this Section shall be governed by Section 446.305.
- If a proposed change in an applicant's rate or charge is disallowed or

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denied by the Section, an applicant may file a written petition under Section 446.307. All hearings scheduled under this paragraph shall be conducted in accordance with the provisions of Sections 446.501, 446.502, 446.503, 446.504 and 446.505.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

SUBPART D: LEVEL OF RATES OR CHARGES

Section 446.402 Rates or Charges

The following rates or charges for safety inspections of school buses have been determined by the Department to be prima facie just and reasonable rates or charges for the counties indicated. An application for a charge or rate equal to or less than the specified charge or rate will be approved. An application for a charge or rate in excess of the specified charge or rate will be disapproved. If a proposed rate or charge is disapproved by the Section, an applicant may appeal the disapproval to the Director under Section 446.307.

Region	Counties	Rates
1	Boone---Cook---DuPage---Will---Kankakee	\$19.50
2	Boone---Davies---Stephenson---Winnebago---Boone	\$16.50
3	Boone---Henry---Stephenson---Winnebago---Boone	\$14.00
4	Boone---Henry---Stephenson---Winnebago---Boone	\$17.00
5	Boone---Henry---Stephenson---Winnebago---Boone	\$12.50
6	Boone---Henry---Stephenson---Winnebago---Boone	\$11.00
7	Boone---Henry---Stephenson---Winnebago---Boone	\$14.00
8	Boone---Henry---Stephenson---Winnebago---Boone	\$17.00
9	Boone---Henry---Stephenson---Winnebago---Boone	\$12.50
10	Boone---Henry---Stephenson---Winnebago---Boone	\$11.00
11	Boone---Henry---Stephenson---Winnebago---Boone	\$14.00

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1	Cook, DuPage, Grundy, Kankakee, Kendall, Lake, Will	\$19.50
2	Boone, Dekalb, Jo Daviess, Kane, McHenry, Stephenson, Winnebago	\$16.50
3	Bureau, Carroll, Fulton, Henderson, Henry, Knox, LaSalle, Lee, Livingston, Marshall, Mercer, Oglesby, Putnam, Rock Island, Stark, Warren, Whiteside	\$14.00
4	Mason, Menard, Morgan, Peoria, Sangamon, Tazewell, Woodford	\$17.00
5	DeWitt, Logan, Macon, McLean	\$12.50
6	Adams, Brown, Calhoun, Cass, Greene, Hancock, Jersey, Macoupin, McDonough, Pike, Schuyler, Scott	\$11.00
7	Coles, Champaign, Douglas, Edgar, Ford, Iroquois, Moultrie, Piatt, Shelby, Vermilion	\$13.50
8	Bond, Christian, Clay, Clinton, Effingham, Fayette, Jasper, Marion, Montgomery	\$14.00
9	Madison, St. Clair	\$17.50
10	Jackson, Monroe, Perry, Randolph, Union, Washington	\$13.00
11	Alexander, Clark, Crawford, Cumberland, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jefferson, Johnson, Lawrence, Massac, Pope, Pulaski, Richland, Saline, Wabash, Wayne, White, Williamson	\$11.00

Section 446.502 Notice and Place of Hearing

a) Hearings on petitions filed by operators of Official Testing Stations in Boone, Bureau, Carroll, Cook, Dekalb, DuPage, Grundy, Henry, Jo Daviess, Kane, Kankakee, Marshall, Lake, LaSalle, Lee, McHenry, Oglesby, Rock Island, Stephenson, Whiteside, Will and Winnebago Counties shall be held at the offices of the Department at 201 West Center Court, Schaumburg, Illinois. Hearings for operators in Alexander, Clay, Clinton, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Lawrence, Marion, Massac, McDonough, Piatt, Pope, Pulaski, Randolph, Richland, Saline, St. Clair, Stark, Wayne, Wabash, Washington, Wayne, White and Williamson Counties shall be held at the offices of the Department at 2801 West Murphysboro Road, Carbondale, Illinois. Hearings for operators in any other county shall be held at the Department's offices located at 3215 Executive Park Drive, Springfield, Illinois.

a) Hearing on petitions filed by operators of Official Testing Stations in McHenry, Boone, Kane, Dekalb, Jo Daviess, Stephenson, Winnebago, Boone, DuPage, Kankakee, Grundy, LaSalle, Carroll, Edgar, Clinton, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Lawrence, Marion, Massac, McDonough, Piatt, Pope, Pulaski, Randolph, Richland, Saline, St. Clair, Stark, Wayne, Wabash, Washington, Wayne, White and Williamson Counties shall be held at the offices of the Department at 2801 West Murphysboro Road, Carbondale, Illinois. Hearings for operators in any other county shall be held at the Department's offices located at 3215 Executive Park Drive, Springfield, Illinois.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

~~Beahty-Whiteside-Deer-Rock-Island-Henry-and-Bureau-Counties--shall be-held-at-the-offices-of-the-Department-at-1000-Pizza-Drive Schaumburg-Illinois-60172---Hearings-for-operators-of-any-other county--shall-be-held-at-the-Department's-offices-located-at-320-West Washington-Street-Springfield-Illinois-62766-~~

- b) The Department shall give notice of the hearing to the person requesting the hearing and to the Department's Office of Chief Counsel. In the case of a petition for approval of rate change, the Department shall also cause to be published a Notice of the petition for Rate Change in a newspaper of general circulation in the community in which the petitioner's Official Testing Station is located, setting forth the time and place of the hearing.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

SUBPART F: COMPLAINTS OF UNREASONABLE OR UNJUST RATES

Section 446.602 Complaints

- a) Whenever any person intends to complain to the Department about the justness or reasonableness of any rate of charge filed by any operator with the Department, that person shall make the complaint in writing and mail or submit it to: Commercial Vehicle Safety Vehicle Inspection Section, Illinois Department of Transportation, 3215 Executive Park Drive, P. O. Box 19212, 320-West-Washington-Street Post-Office-Box-40697 Springfield, Illinois 62794-9212. 62768-
- b) Each complaint shall include:
- 1) the name, address and telephone number of the person making the complaint;
 - 2) a statement whether the complainant owns or operates an Official Testing Station, and if applicable, the name, business address and telephone number of that Official Testing Station;
 - 3) the name and if known the business address, of the operator against whom the person complains;
 - 4) A description or statement of the rate(s) about which the person complains;
 - 5) a statement setting forth in detail the specific facts and reasons why the person believes the rate(s) about which that person complains is unjust or unreasonable; and
 - 6) any information, document or other matters upon which the person relies.
- c) The facts asserted in any complaint must be sworn to by persons having knowledge thereof. Except under unusual circumstances, such persons should be those who will be available to appear as witnesses at a hearing convened by the Department to substantiate the facts asserted should a hearing become necessary.
- d) An original copy of the Complaint shall be filed with the

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

Department. The original must show the signature, capacity and impression seal, if any, of the person administering the oath, and the date thereof.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Pay Plan
- 2) Code Citation: 80 Ill. Adm. Code 310
- 3) Section Numbers: Adopted Action:
310.230 Amended
310.290 Amended
- 4) Statutory Authority:
Authorized by Section 8a.2 of the Personnel Code and 20 ILCS 415/8 and 8a.
- 5) Effective Date of Amendment: June 1, 1995
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporation by reference? No
These amendments do not contain any incorporations by reference.
- 8) Date filed in Agency's Principal Office: June 1, 1995
- 9) Notice of Proposal Published in Illinois Register:
March 3, 1995, Issue #9, 19 Ill. Reg. 2365
- 10) Has JCAR issued a Statement of Objections to this rule? No

- 11) Difference between proposal and final version:

The Authority citation in the Table of Contents was corrected to delete the Illinois Revised Statutes reference since this is obsolete.

In Section 310.230, the new maximum hourly salary of \$5.70 which was recently adopted for the Laborer (Maintenance) title was incorporated.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR?

Yes

- 13) Will these Amendments replace an emergency amendment currently in effect?

Yes

- 14) Are there any amendments pending to this part? Yes

Section Numbers Proposed Action Ill. Reg. Citation

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

- | | | |
|-----------------|---------|---------------------------------------|
| 310.230 | Amended | 19 Ill. Reg. 3122
(March 17, 1995) |
| 310.110 | Amended | 19 Ill. Reg. 5165
(April 7, 1995) |
| 310.130 | Amended | 19 Ill. Reg. 5165
(April 7, 1995) |
| 310. Appendix B | Amended | 19 Ill. Reg. 5165
(April 7, 1995) |

- 15) Summary and Purpose of Amendment:

In Section 310.230, Part-Time Daily or Hourly Special Services Rate, the hourly and daily rates of the Office Aide, Office Assistant, Office Associate and Office Clerk were upgraded to be parallel with the monthly minimum and maximum salaries for those titles at the request of the Department of Revenue.

In Section 310.290, Out-of-State or Foreign Service Rate, the Public Service Administrator title was included with the salary range of \$2,831 - 5,834 for states other than California and New Jersey, and \$3,201 - 6,595 for California and New Jersey.

The salary ranges for the Revenue Auditor II and III were upgraded to maintain the same differential above the in-state positions which received a one-grade increase, effective January 1, 1995.

The Revenue Auditor II's salary was upgraded to \$3,033 - 4,140 for states other than California and New Jersey, and \$3,428 - 4,680 for California and New Jersey. The Revenue Auditor III's salary was upgraded to \$3,685 - 5,037 for states other than California and New Jersey, and \$4,709 - 6,438 for California and New Jersey.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Name: Mr. Michael Murphy
Address: Department of Central Management Services
Division of Technical Services
504 William G. Stratton Building
Springfield, Illinois 62706

Telephone: 313-792-6601

The full text of the Adopted Amendment(s) begins on the next page.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND

POSITION CLASSIFICATIONS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310
PAY PLAN

SUBPART A: NARRATIVE

Section	
310.20	Policy and Responsibilities
310.30	Jurisdiction
310.40	Pay Schedules
310.50	Definitions
310.60	Conversion of Base Salary to Pay Period Units
310.70	Conversion of Base Salary to Daily or Hourly Equivalents
310.80	Increases in Pay
310.90	Decreases in Pay
310.100	Other Pay Provisions
310.110	Implementation of Pay Plan Changes for Fiscal Year 1995
310.120	Interpretation and Application of Pay Plan
310.130	Effective Date
310.140	Reinstitution of Within Grade Salary Increases
310.150	Fiscal Year 1985 Pay Changes in Schedule of Salary Grades, Effective July 1, 1984 (Repealed)

SUBPART B: SCHEDULE OF RATES

Section	
310.205	Introduction
310.210	Prevailing Rate
310.220	Negotiated Rate
310.230	Part-Time Daily or Hourly Special Services Rate
310.240	Hourly Rate
310.250	Member, Patient and Inmate Rate
310.260	Trainee Rate
310.270	Legislated and Contracted Rate
310.280	Designated Rate
310.290	Out-of-State or Foreign Service Rate
310.300	Educator Schedule for RC-063 and HR-010
310.310	Physician Specialist Rate
310.320	Annual Compensation Ranges for Executive Director and Assistant Executive Director, State Board of Elections
310.330	Excluded Classes Rate (Repealed)

SUBPART C: MERIT COMPENSATION SYSTEM

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section	
310.410	Jurisdiction
310.420	Objectives
310.430	Responsibilities
310.440	Merit Compensation Salary Schedule
310.450	Procedures for Determining Annual Merit Increases
310.455	Intermittent Merit Increase
310.456	Merit Zone
310.460	Other Pay Increases
310.470	Adjustment
310.480	Decreases in Pay
310.490	Other Pay Provisions
310.495	Public Service Administrator Class Series
310.500	Definitions
310.510	Conversion of Base Salary to Pay Period Units
310.520	Conversion of Base Salary to Daily or Hourly Equivalents
310.530	Implementation
310.540	Annual Merit Increase Guidechart for Fiscal Year 1995
310.550	Fiscal Year 1985 Pay Changes in Merit Compensation System, effective July 1, 1984 (Repealed)

APPENDIX A

Table	Negotiated Rates of Pay	Central Management Services - State of Illinois Building - SEIU)
TABLE A	HR-190 (Department of Labor - Chicago, Illinois - SEIU)	
TABLE B	RC-069 (Firefighters, AFSCME)	
TABLE C	HR-001 (Teamsters Local #726)	
TABLE D	RC-020 (Teamsters Local #330)	
TABLE E	RC-019 (Teamsters Local #25)	
TABLE F	RC-045 (Automotive Mechanics, IFPE)	
TABLE G	RC-006 (Corrections Employees, AFSCME)	
TABLE H	RC-009 (Institutional Employees, AFSCME)	
TABLE I	RC-014 (Clerical Employees, AFSCME)	
TABLE J	RC-023 (Registered Nurses, INA)	
TABLE K	RC-008 (Boilermakers)	
TABLE L	RC-110 (Conservation Police Lodge)	
TABLE M	RC-010 (Professional Legal Unit, AFSCME)	
TABLE N	RC-028 (Paraprofessional Human Services Employees, AFSCME)	
TABLE O	RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, IFPE)	
TABLE P	RC-033 (Meat Inspectors, IFPE)	
TABLE Q	RC-042 (Residual Maintenance Workers, AFSCME)	
TABLE R	HR-012 (Fair Employment Practices Employees, SEIU)	
TABLE S	HR-010 (Teachers of Deaf, IFT)	
TABLE T	HR-010 (Teachers of Deaf, Extracurricular Paid Activities)	
TABLE U	CU-500 (Corrections, Meet and Confer Employees)	
TABLE V	RC-062 (Technical Employees, AFSCME)	
TABLE W	RC-063 (Professional Employees, AFSCME)	
TABLE X		

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

TABLE Y RC-063 (Educators, AFSCME)
 TABLE Z RC-063 (Physicians, AFSCME)
 APPENDIX B Schedule of Salary Grades - Monthly and Annual Rates of Pay for Fiscal Year 1995
 APPENDIX C Medical Administrator Rates for Fiscal Year 1995
 APPENDIX D Merit Compensation System Salary Schedule for Fiscal Year 1995
 APPENDIX E Teaching Salary Schedule (Repealed)
 APPENDIX F Physician and Physician Specialist Salary Schedule (Repealed)
 APPENDIX G Public Service Administrator Class Series Salary Schedule

AUTHORITY: Implementing and authorized by Section 8a.2 of the Personnel Code [20 ILCS 415/8 and 8.a].

SOURCE: Filed June 28, 1987; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11299, effective June 25, 1984; emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 3681, effective March 12, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9231, effective May 31, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9420, effective June 7, 1985; amended at 9 Ill. Reg. 10663, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 3325, effective January 22, 1986; amended at 10 Ill. Reg. 3230, effective January 24, 1986; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 8928, effective May 13, 1986; emergency amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 13675, effective July 31, 1986; emergency amendment at 10 Ill. Reg. 14867, effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 19132, effective October 28, 1986; emergency amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11 Ill. Reg. 648, effective December 22, 1986; emergency amendment at 11 Ill. Reg. 3363, effective February 3, 1987; emergency amendment at 11 Ill. Reg. 4388,

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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effective February 27, 1987; emergency amendment at 11 Ill. Reg. 6291, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; emergency amendment at 11 Ill. Reg. 15273, effective September 1, 1987; emergency amendment at 11 Ill. Reg. 17919, effective October 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1987; emergency amendment at 12 Ill. Reg. 3811, effective January 27, 1988; emergency amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; emergency amendment at 12 Ill. Reg. 7783, effective April 14, 1988; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 8135, effective April 22, 1988; emergency amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12895, effective July 18, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 13306, effective July 27, 1988; corrected at 12 Ill. Reg. 13359; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 28, 1988; emergency amendment at 13 Ill. Reg. 20584, effective November 28, 1988; emergency amendment at 13 Ill. Reg. 8080, effective May 10, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; emergency amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 10967, effective June 20, 1989, for a maximum of 150 days; emergency amendment expired on November 17, 1989; amended at 13 Ill. Reg. 11451, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1989, for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; emergency amendment at 13 Ill. Reg. 12887, effective July 24, 1989; amended at 13 Ill. Reg. 16950, effective October 20, 1989; amended at 13 Ill. Reg. 19221, effective December 12, 1989; amended at 14 Ill. Reg. 615, effective January 11, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 7652, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14 Ill. Reg. 10002, effective June 11, 1990; emergency amendment at 14 Ill. Reg. 11330, effective June 29, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14361, effective August 24, 1990; emergency amendment at 14 Ill. Reg. 15570, effective September 11, 1990, for a maximum of 150 days; emergency amendment expired on February 8, 1991; corrected at 14 Ill. Reg. 16092; emergency amendment at 14 Ill. Reg. 17098, effective September 26, 1990; amended at 14 Ill. Reg. 17189, effective October 2, 1990; amended at 14 Ill. Reg. 17189, effective October 13, 1990; amended at 14 Ill. Reg. 18719, effective November 13, 1990; emergency amendment at 14 Ill. Reg. 18854, effective November 13, 1990; emergency amendment at 15 Ill. Reg. 663, effective January 7, 1991; amended at 15 Ill. Reg. 3296, effective February 14, 1991; amended at 15 Ill. Reg. 4401, effective March 11, 1991; emergency

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

amendment at 15 Ill. Reg. 5100, effective March 20, 1991; peremptory amendment at 15 Ill. Reg. 5465, effective April 2, 1991; emergency amendment at 15 Ill. Reg. 10485, effective July 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 11080, effective July 19, 1991; amended at 15 Ill. Reg. 13080, effective August 21, 1991; amended at 15 Ill. Reg. 14210, effective September 23, 1991; emergency amendment at 16 Ill. Reg. 711, effective December 26, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3450, effective February 20, 1992; peremptory amendment at 16 Ill. Reg. 5068, effective March 11, 1992; amended at 16 Ill. Reg. 8382, effective May 26, 1992; emergency amendment at 16 Ill. Reg. 13950, effective August 19, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14452, effective September 4, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 238, effective December 23, 1992; peremptory amendment at 17 Ill. Reg. 498, effective December 18, 1992; amended at 17 Ill. Reg. 590, effective January 4, 1993; amended at 17 Ill. Reg. 1819, effective February 2, 1993; amended at 17 Ill. Reg. 6441, effective April 8, 1993; emergency amendment at 17 Ill. Reg. 12900, effective July 22, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13409, effective July 29, 1993; emergency amendment at 17 Ill. Reg. 13789, effective August 9, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 14666, effective August 26, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19103, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 21858, effective December 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 22514, effective December 15, 1993; amended at 18 Ill. Reg. 227, effective December 17, 1993; amended at 18 Ill. Reg. 1107, effective January 18, 1994; amended at 18 Ill. Reg. 5146, effective March 21, 1994; peremptory amendment at 18 Ill. Reg. 9562, effective June 13, 1994; emergency amendment at 18 Ill. Reg. 11299, effective July 1, 1994, for a maximum of 150 days; peremptory amendment at 18 Ill. Reg. 13476, effective August 17, 1994; emergency amendment at 18 Ill. Reg. 14417, effective September 9, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16545, effective October 28, 1994; peremptory amendment at 18 Ill. Reg. 16708, effective October 28, 1994; amended at 18 Ill. Reg. 17191, effective November 21, 1994; amended at 19 Ill. Reg. 1024, effective January 24, 1995; peremptory amendment at 19 Ill. Reg. 2481, effective February 17, 1995; peremptory amendment at 19 Ill. Reg. 3073, effective February 17, 1995; amended at 19 Ill. Reg. 3456, effective March 7, 1995; peremptory amendment at 19 Ill. Reg. 5145, effective March 14, 1995; amended at 19 Ill. Reg. 6452, effective May 2, 1995; peremptory amendment at 19 Ill. Reg. 6688, effective May 1, 1995; amended at 19 Ill. Reg. **7841**, effective **JUN 01 1995**.

SUBPART B: SCHEDULE OF RATES

Section 310.230 Part-Time Daily or Hourly Special Services Rate

The rate of pay as approved by the Director of Central Management Services for persons employed on a consultative or part-time basis requiring irregular hours of work shall be as listed below, except the total compensation of an employee in any given month shall not exceed the monthly rate of Step 5 of the salary

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

grade for the title as shown in the Schedule of Salary Grades (Appendix B) of this Part if the class title is subject to the Schedule of Salary Grades, or Step 5 of the negotiated salary range for classes of positions shown in Section 310.220, Subpart B, Schedule of Rates, or 75% of the maximum rate of those classes of positions subject to the provisions of the Merit Compensation System, Subpart C of this Pay Plan.

Account Technician II	11.00 to 14.08 (hourly)
Apiary Inspector	83 to 106 (daily)
Building/Grounds Laborer	32 to 50
Building/Grounds Lead I	4.25 to 6.00 (per hour)
Building/Grounds Lead II	4.25 to 7.00 (per hour)
Building/Grounds Maintenance Worker	5.25 to 8.00 (per hour)
Chaplain I	5.00 to 6.00 (per hour)
Chemist I	32 to 70
Conservation/Historic Preservation Worker	32 to 45
Conservation/Historic Preservation Worker (2nd season -- site interpretation)	4.50 (per hour)
Conservation/Historic Preservation Worker (3rd season -- site interpretation)	4.64 (per hour)
Dentist I	4.78 (per hour)
Dentist II	70 to 150
Educator	100 to 185
Educator Aide	32 to 60
Guard II	32 to 35
Guard III	67 to 84
Hearing and Speech Coordinator	75 to 96
Hearings Referee	15 to 30 (per hour)
Janitor I	75 to 200
Labor Maintenance Lead Worker	4.73 to 5.30 (per hour)
Labor Relations Investigator	5.00 to 6.00 (per hour)
Laborer (Maintenance)	35 to 70
Maintenance Worker	4.25 to 5.70 (per hour)
Occupational Therapist	4.25 to 5.00 (per hour)
Program Coordinator	40 to 160
Office Aide	4-25--60--9-34-- t hourly †
Office Assistant	42--60--70-- t hourly †
	8.12 to 10.10 (hourly)
	60 to 76 (daily)
	4-25--60--10-70-- t hourly †
	42--60--85-- t hourly †
	9.16 to 11.65 (hourly)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Office Associate	58 to 88 (daily) 4-25-to-11-71-t hourly
	42-to-88-(daily) 9.80 to 12.67 (hourly)
Office Clerk	73 to 95 (daily) 4-25-to-10-01-(hourly) 61-to-75-(daily) 9.58 to 10.83 (hourly) 64 to 82 (daily)
Optometrist	50 to 160 (daily)
Optometrist	15 to 35 (hourly)
Physician	100 to 300
Physician Specialist (A)	100 to 325 (daily)
Physician Specialist (A)	20 to 60 (hourly)
Physician Specialist (B)	100 to 350 (daily)
Physician Specialist (B)	20 to 70 (hourly)
Physician Specialist (C)	100 to 360 (daily)
Physician Specialist (C)	20 to 75 (hourly)
Physician Specialist (D)	100 to 370 (daily)
Physician Specialist (D)	20 to 85 (hourly)
Podiatrist	50 to 125
Psychologist I	35 to 80
Psychologist II	40 to 125
Psychologist III	40 to 150
Recreation Worker I	32 to 40
Recreation Worker I	5.33 (per hour)
Registered Nurse I	39 to 54
Registered Nurse I	41 to 56
(2nd or 3rd shift)	
Registered Nurse I (Cook County)	43 to 58
Registered Nurse I (Cook County -	44 to 59
2nd or 3rd shift)	
Registered Nurse II	43 to 58
Registered Nurse II	44 to 59
(2nd or 3rd shift)	
Registered Nurse II (Cook County)	45 to 60
Registered Nurse II (Cook County -	47 to 62
2nd or 3rd shift)	
Social Worker II	35 to 75
Social Worker III	35 to 80
Student Worker	1.25 to 8.00 (per hour)
Tax Examiner	9.69 to 12.21 (hourly)
	73 to 92 (daily)
Technical Advisor II	32 to 35 (per hour)
Technical Advisor III	32 to 60 (per hour)
Technical Advisor IV	50 to 80 (per hour)
Veterinarian II	95 to 130 (daily)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 19 Ill. Reg. **7841**, effective
JUN 01 1995)

Section 310.290 Out-of-State or Foreign Service Rate

The rate of pay for employees occupying positions which require payment in accordance with the economic conditions and social legislation of another state or foreign country. An adjustment may be made to the salary of an employee stationed in a foreign country to compensate for a change in the currency exchange rate. The Director of the Department of Central Management Services will, before approving an adjustment, consider the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.

Title	Range Effective Fiscal Year 1995
Foreign Service Economic Development Executive I	3161-5481
Foreign Service Economic Development Executive II	4048-7182
Foreign Service Economic Development Representative	2686-4562
Office Administrator IV (States Other Than California and New Jersey) (CA, NJ)	2111-3442
Office Assistant (Foreign Service)	2387-3891
Office Associate (States Other Than California and New Jersey) (CA, NJ)	1719-2186
Public Service Administrator (States Other Than California and New Jersey) (CA, NJ)	1839-2376
Office Coordinator (States Other Than California and New Jersey) (CA, NJ)	2079-2686
Revenue Audit Supervisor (States Other Than California and New Jersey)	2831-5834
	3201-6595
	1993-2178
	2158-2802
	3338-5834

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

(CA, NJ)

3774-6595

Revenue Auditor I

(States Other Than California

and New Jersey)

(CA, NJ)

2601-3504

Revenue Auditor II

(States Other Than California

and New Jersey)

(CA, NJ)

~~2476-3897~~

3033-4140

~~3251-4406~~

3428-4680

Revenue Auditor III

(States Other Than California

and New Jersey)

(CA, NJ)

~~3284-4389~~

3685-5037

~~3622-4952~~

4709-6438

Revenue Auditor Trainee

(States Other Than California

and New Jersey)

(CA, NJ)

2168-2857

2451-3229

Senior Public Service Administrator

(States Other Than California and New Jersey)

(CA, NJ)

3901-3642

4410-9770

Tax Examiner

(States Other Than California and

New Jersey)

(CA, NJ)

1909-2478

2158-2802

Tax Examiner Trainee

(States Other Than California and

New Jersey)

(CA, NJ)

1719-2186

1944-2471

(Source: Amended

JUN 01 1995

19

ILL.

Reg.

7841

effective

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: The Travel Regulation Council2) Code Citation: 80 Ill. Adm. Code 30003) Section Number: Adopted Action:

3000.Appendix A Amend

4) Statutory Authority: Implementing and authorized by Sections 12, 12-2, and 12-3 of the State Finance Act [30 ILCS 105/12, 12-2 and 12-3]5) Effective Date of Rules: July 1, 19956) Does this rulemaking contain an automatic repeal date? No.7) Do the Rules contain incorporations by reference? No.8) Date Filed in Agency's Principal Office: May 30, 19959) Notice of Proposal Published in Illinois Register:

February 24, 1995, 19 Ill Reg. 2093

10) Has JCAR issued a Statement of Objections to the Amendments? No.11) Differences between proposal and final version:

Several minor editing changes were made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No agreements were necessary.13) Will the Rules replace an emergency rule currently in effect? No.14) Are there any amendments pending on this Part? No.15) Summary and Purpose of Rules: The amendment will increase many of the allowable rates used by State employees when traveling.16) Information and questions regarding this adopted rule shall be directed to:Stephen W. Seiple
720 Stratton Office Building
Springfield, IL 62706

(217)782-9669

TDD (217)785-3979

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

The full text of the Adopted Amendments begin on the next page.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE I: GENERAL TRAVEL CONTROL

CHAPTER IV: TRAVEL REGULATION COUNCIL

PART 3000

THE TRAVEL REGULATION COUNCIL

SUBPART A: GENERAL

Section	
3000.100	Authority
3000.110	Philosophy
3000.120	Policy
3000.130	Scope and Interpretation
3000.140	Definitions

SUBPART B: TRAVEL CONTROL SYSTEM

Section	
3000.200	Travel Control System
3000.210	Designation of Headquarters
3000.220	Expenses at Headquarters or Residence
3000.230	Preparation and Submission of Vouchers or Travel Expenses

SUBPART C: TRANSPORTATION

Section	
3000.300	Modes of Transportation
3000.310	Routing

SUBPART D: LODGING

Section	
3000.400	Lodging Allowances
3000.410	Least Costly Lodging
3000.420	Conference Lodging
3000.430	Employee Owned or Controlled Housing

SUBPART E: PER DIEM-MEALS

Section	
3000.500	Per Diem Allowance
3000.510	Meal Allowance

SUBPART F: MISCELLANEOUS RULES

Section	
3000.600	Reimbursable and Non-Reimbursable Expenses

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

3000.610 Expenses Related to Transportation
 3000.620 Receipts Required
 3000.630 Meals for Other Persons

SUBPART G: EXCEPTIONS

Section

3000.700 Exceptions to the Rules
 3000.710 Board-Agency Rules
 3000.720 Non-Required Travel

APPENDIX A Reimbursement Schedule

AUTHORITY: Implementing and authorized by Sections 12, 12-2 and 12-3 of the State Finance Act [30 ILCS 105/12, 12-2 and 12-3].

SOURCE: Emergency rules adopted at 10 Ill. Reg. 12697, effective July 2, 1986, for a maximum of 150 days; adopted at 10 Ill. Reg. 13188, effective January 1, 1987; peremptory amendment at 11 Ill. Reg. 14854, effective August 25, 1987; amended at 12 Ill. Reg. 11626, effective July 1, 1988; amended at 14 Ill. Reg. 10014, effective July 1, 1990; amended at 19 Ill. Reg. **7852**, effective

MAY 30 1995

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section 3000.APPENDIX A Reimbursement Schedule

The following rates are effective for the Travel Control Boards. The rates will be reviewed annually to determine necessary adjustments.

Type of Reimbursement

Rate

Mileage

Auto

Plane

See Section 3000.300(f)(2)
 40¢

Per Diem/Meals

Breakfast

Lunch

Dinner

Per-Diem

\$4-50
 \$4-50
 \$15-00
 \$24-00

Within the State of Illinois

Breakfast

Lunch

Dinner

\$5.50
 \$5.50
 \$17.00

Per Diem -- Quarter

Per Diem -- Day

\$7.00
 \$28.00

Outside the State of Illinois

Breakfast

Lunch

Dinner

\$6.50
 \$6.50
 \$19.00

Per Diem -- Quarter

Per Diem -- Day

\$8.00
 \$32.00

Lodging

Downstate

Chicago--Metro--Cook--DuPage--Kane
 Lake--McHenry--Will--Counties

\$50-00
 \$60-00

Chicago Metro

Counties of Cook, DuPage, Kane,
 Lake, McHenry, Will

\$80.00

Downstate

Counties of Champaign, Kankakee,
 LaSalle, McLean, Macon, Madison
 Peoria, St. Clair, Sangamon,
 Tazewell, and Winnebago

\$60.00

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All other downstate counties

\$50.00

Out-of-State

~~\$90.00~~ \$110.00

Out-of-Country

Actual Reasonable

(Source: Amended at 19 Ill. Reg. 78.52, effective
MAY 30 1995)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Travel
- 2) Code Citation: 80 Ill. Adm. Code 2800
- 3) Section Number: Adopted Action:
2800.Appendix A New
- 4) Statutory Authority: Implementing and authorized by Sections 12, 12-1, 12-2, and 12-3 of the State Finance Act [30 ILCS 105/12, 12-1, 12-2 and 12-3] and authorized by The Travel Regulation Council (80 Ill. Adm. Code 3000).
- 5) Effective Date of Rules: July 1, 1995
- 6) Does this rulemaking contain an automatic repeal date? No.
- 7) Do the Rules contain incorporations by reference? No.
- 8) Date Filed in Agency's Principal Office: May 30, 1995
- 9) Notice of Proposal Published in Illinois Register:
February 24, 1995, 19 Ill Reg. 2098
- 10) Has JCAR issued a Statement of Objections to the Amendments? No.
- 11) Differences between proposal and final version:

Under Lodging, Chicago Metro, a rate of \$70 was originally proposed by CMS but a typographical error appeared in the Illinois Register (\$80). \$70 is correct.

Several minor editing changes were made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No agreements were necessary.

13) Will the Rules replace an emergency rule currently in effect? No.

14) Are there any amendments pending on this Part? No.

15) Summary and Purpose of Rules:

The amendment will update the travel reimbursement rates applicable to employees subject to the Governor's Travel Control Board.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

16) Information and questions regarding this adopted rule shall be directed to:

Stephen W. Seiple
720 Stratton Office Building
Springfield, IL 62706
(217)782-9669
TDD (217)785-3379

The full text of the Adopted Amendments begin on the next page.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE I: GENERAL TRAVEL CONTROL
CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES/
GOVERNOR'S TRAVEL CONTROL BOARD

PART 2800
TRAVEL

SUBPART A: GENERAL

Section
2800.100 Definitions
2800.110 Application and Interpretation

SUBPART B: TRAVEL CONTROL SYSTEM

Section
2800.200 Travel Control System
2800.210 Travel Coordinator
2800.220 Travel Authority
2800.230 Government Charge Cards
2800.235 Expenses at Headquarters or Residence
2800.240 Preparation and Submission of Travel Vouchers
2800.250 Approval and Submission of Travel Vouchers
2800.260 Items Directly Billed
2800.270 Conference Registration Fees

SUBPART C: TRANSPORTATION EXPENSES

Section
2800.300 Incidental Expenses for Private and State Owned Automobiles

SUBPART D: LODGING

Section
2800.400 Conference Lodging
2800.410 Employee Owned or Controlled Housing

SUBPART E: PER DIEM MEALS

Section
2800.500 Conference Meals

SUBPART F: MISCELLANEOUS RULES

Section
2800.600 Lack of Receipts
2800.650 Headquarter Designation for Agency Heads

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

SUPPORT G: EXCEPTIONS TO THE RULES

Section 2800.700 Special Exceptions-Requested in Advance
2800.710 Ex Post Facto Exceptions

Appendix A Reimbursement Schedule

AUTHORITY: Implementing and authorized by Sections 12, 12-1, 12-2, and 12-3 of the State Finance Act (30 ILCS 105/12, 12-1, 12-2 and 12-3) and authorized by the Travel Regulation Council (80 Ill. Adm. Code 3000).

SOURCE: Amended March 11, 1976; amended at 2 Ill. Reg. 30, p. 215, effective August 1, 1978; new rules adopted at 4 Ill. Reg. 28, p. 155, effective July 1, 1980; old rules repealed at 4 Ill. Reg. 30, p. 1224, July 1, 1980; amended at 5 Ill. Reg. 150, effective January 1, 1981; amended at 6 Ill. Reg. 6682, effective July 1, 1982; amended at 7 Ill. Reg. 9205, effective August 1, 1983; amended at 8 Ill. Reg. 127, 130, effective January 1, 1984; amended at 8 Ill. Reg. 14243, effective August 1, 1984; codified at 8 Ill. Reg. 19350; amended at 10 Ill. Reg. 18014, effective October 6, 1986; Part repealed, new Part adopted at 12 Ill. Reg. 738, effective January 15, 1988; emergency amendment at 15 Ill. Reg. 13196, effective September 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17981, effective November 27, 1991; amended at 16 Ill. Reg. 4831, effective March 12, 1992; amended at 16 Ill. Reg. 13823, effective September 1, 1992; amended at 19 Ill. Reg. 36, effective January 1, 1995; amended at 19 Ill. Reg. **7858**, effective JUL 01 1995.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section 2800.APPENDIX A Reimbursement Schedule

The following rates are effective for Agencies under the jurisdiction of the Board.

Type of ReimbursementRateAuto

See Section 3000.300(f)(2) of the Travel Regulation Council Rules (80 Ill. Adm. Code 3000.300(f)(2))

Plane

\$0.40/mile

Per Diem/MealsWithin the State of IllinoisBreakfast

\$ 5.50

Lunch

\$ 5.50

Dinner

\$ 17.00

Per Diem -- Quarter

\$ 7.00

Per Diem -- Day

\$ 28.00

Outside the State of IllinoisBreakfast

\$ 6.50

Lunch

\$ 6.50

Dinner

\$ 19.00

Per Diem -- Quarter

\$ 8.00

Per Diem -- Day

\$ 32.00

LodgingChicago Metro

Counties of Cook, Dupage,

Kane, Lake, McHenry, Will

\$ 70.00

Downstate Illinois

\$ 50.00

Out-of-State

Washington, D.C. (also includes the cities of Alexandria, Falls Church, and Fairfax, and the counties of Arlington, Loudoun, and Fairfax in Virginia; and the counties of Montgomery and Prince Georges in Maryland) and New York City (includes the

\$110.00

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NOTICE OF ADOPTED AMENDMENTS

boroughs of Bronx, Brooklyn,
Manhattan, Queens, and Staten
Island; Nassau and Suffolk Counties)

All other out-of-state
locations

Out-of-Country

(Source: Added at 19 Ill. Reg. 78.58, effective
JUL 01 1995)

\$ 90.00

Actual Reasonable

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED RULES

1) Heading of the Part: Affordable Housing Bond Program - Single Family

2) Code Citation: 47 Ill. Adm. Code 366

3) Section Numbers: Adopted Action:

366.101	New Section
366.102	New Section
366.103	New Section
366.104	New Section
366.105	New Section
366.106	New Section
366.107	New Section
366.108	New Section
366.109	New Section
366.110	New Section
366.111	New Section
366.112	New Section
366.113	New Section
366.201	New Section
366.202	New Section
366.203	New Section
366.301	New Section
366.302	New Section
366.303	New Section
366.401	New Section
366.402	New Section
366.403	New Section
366.404	New Section
366.405	New Section
366.501	New Section
366.502	New Section
366.503	New Section
366.504	New Section
366.601	New Section
366.602	New Section
366.603	New Section
366.604	New Section

4) Statutory Authority: Sections 7.19 and 7.25 of the Illinois Housing Development Act [20 ILCs 3805/7.19 and 7.25] and Sections 4 and 7(e) of the Illinois Affordable Housing Act [30 ILCs 65/4 and 65/7(e)].

5) Effective Date of Rulemaking: June 2, 1995

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED RULES

TITLE 47: HOUSING AND COMMUNITY DEVELOPMENT
CHAPTER II: ILLINOIS HOUSING DEVELOPMENT AUTHORITY

PART 366
AFFORDABLE HOUSING BOND PROGRAM - SINGLE FAMILY

SUBPART A: GENERAL RULES

Section	Authority
366.101	Purpose and Objectives
366.102	Definitions
366.103	Borrowing by the Authority
366.104	Standards
366.105	Forms and Procedures for the Program
366.106	Fees and Charges of the Authority
366.107	Waiver
366.108	Amendment
366.109	Severability
366.110	Gender and Number
366.111	Titles and Captions
366.112	Calendar Days
366.113	

SUBPART B: APPROVAL OF SINGLE FAMILY PROGRAMS

Section	Establishment of Single Family Program
366.201	Staff Recommendation to the Advisory Commission
366.202	Authority Determination
366.203	

SUBPART C: LENDER APPLICATION PROCESS

Section	Invitations to Sell Loans
366.301	Notice of Acceptance
366.302	Commitments for Loans
366.303	

SUBPART D: HOMEBUILDER APPLICATION PROCESS

Section	HomeBuilder Invitations
366.401	Reservation of Funds for Construction of Qualified Dwellings
366.402	Notice of Reservation of Funds
366.403	Real Estate Purchase Contracts
366.404	Transfer of Reserved Funds
366.405	

SUBPART E: PURCHASE OF LOANS

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED RULES

8) Date Filed in Agency's Principal Office: December 16, 1994

9) Notice of Proposal Published in Illinois Register: February 17, 1995, 19 Ill. Reg. 1452

10) Has JCAR issued a Statement of Objections to these rules? No

11) Difference(s) between proposal and final version: Pursuant to Second Notice changes from JCAR, the Authority made a series of substantive, technical and grammatical corrections throughout the rulemaking.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: These rules establish the procedures for operation of the single family portion of the Affordable Housing Bond Program. The Affordable Housing Bond Program was created for the making of loans and grants to acquire, construct, rehabilitate, develop, operate, insure and retain affordable single-family and multi-family housing for low-income and very low-income households.

16) Information and questions regarding these adopted rules shall be directed to:

Name: Richard B. Muller, Esq.
Address: 401 N. Michigan Ave., Suite 900
Chicago, Illinois 60611
Telephone: (312)836-5327

The full text of the Adopted Rule begins on the next page:

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED RULES

Section

366.501 Loans
 366.502 Terms and Conditions of the Purchase of Loans
 366.503 Mortgage Pool Insurance
 366.504 Special Hazard Insurance

SUBPART F: ADMINISTRATIVE RULES

Section

366.601 Servicing of Loans
 366.602 Equal Opportunity Lending
 366.603 Inspection of Books and Records
 366.604 Termination

AUTHORITY: Sections 7.19 and 7.25 of the Illinois Housing Development Act [20 ILCS 3805/7.19 and 7.25] and Sections 4 and 7(e) of the Illinois Affordable Housing Act [310 ILCS 65/4 and 7(e)].

SOURCE: Emergency rule adopted at 19 Ill. Reg. 1921, effective February 16, 1995, for a maximum of 150 days; adopted at 19 Ill. Reg. 7864, effective JUN 02 1995.

SUBPART A: GENERAL RULES

Section 366.101 Authority

These rules are authorized by and made pursuant to the Illinois Housing Development Act (the "Act") [20 ILCS 3805], the Illinois Affordable Housing Act [310 ILCS 65] (the "Affordable Housing Act") and Public Act 88-0093 and shall govern Program.

Section 366.102 Purposes and Objectives

These rules are established to accomplish the general purposes of the Act and the Affordable Housing Act, and in particular the purchasing and making of loans in accordance with the Illinois Housing Development Authority's Affordable Housing Trust Fund Bond Program to achieve the following objectives: the provision of funds to finance, at interest rates below those otherwise available, residential mortgage loans for low and very low income persons and families, and the provision of housing to alleviate the shortage of adequate housing in the State for such persons and families that are residents of the State.

Section 366.103 Definitions

As used in this Part, the following words or terms mean:

"Act": The Illinois Housing Development Act [20 ILCS 3805].

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

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"Advisory Commission": The Illinois Affordable Housing Advisory Commission, established by and pursuant to Section 6(a) of the Affordable Housing Act.

"Affordable Housing Act": The Illinois Affordable Housing Act [310 ILCS 65].

"Assistant Director": The Assistant Director of the Authority.

"Authority": The Illinois Housing Development Authority.

"Bonds": The bonds issued by the Authority from time to time pursuant to the Act and a Resolution to finance the Program, including bonds issued from time to time to replace or refund Bonds or Notes previously issued.

"Commitment Fee": The fee that the Authority may require a prospective HomeBuilder to pay to the Authority at the time it submits its HomeBuilder Participation Agreement to the Authority for acceptance.

"Deputy Director": The Deputy Director of the Authority.

"Director": The Director of the Authority.

"Eligible Borrower": A person applying for a Loan in connection with the purchase of a Qualified Dwelling:

who is or will be a resident of the State within sixty (60) days after the closing of the Loan;

whose Household Income does not exceed the maximum Household Income for Low Income Households or Very Low Income Households, as applicable, for the area in which the Qualified Dwelling is located;

who intends to use the Qualified Dwelling being financed by the Loan as his or her permanent residence within sixty (60) days after the closing of the Loan, or in the case of a Loan for the purchase and rehabilitation of a Qualified Dwelling, within one hundred eighty (180) days of the closing of such Loan. A residence that is used as investment property or a recreational home, or that is primarily intended to be used in a trade or business (including, without limitation, any residence of which more than five percent (5%) of the total area is reasonably expected to be used primarily in a trade or business) does not satisfy the requirements of this subparagraph; and if applicable, meets the requirements of the FHA, RECD or USDA.

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

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"FHA": The Federal Housing Administration.

"FHLMC": The Federal Home Loan Mortgage Corporation.

"FNMA": The Federal National Mortgage Association.

"HomeBuilder": An individual or entity approved by the Authority and that:

for the 12-month period preceding the date of its HomeBuilder Participation Agreement for participation in a Series Program had insurance coverage for product liability, worker's compensation and builder's risk; and

had constructed at least two buildings in that same preceding 12-month period or, in the alternative, had constructed at least four buildings in the 24-month period preceding the date of its HomeBuilder Participation Agreement for participation in a Series Program. An individual or entity that, for purposes of the Program, contracts with another individual or entity that is a HomeBuilder shall be considered a HomeBuilder.

"HomeBuilder Participation Agreement": The agreement between the Authority and a HomeBuilder pursuant to which the HomeBuilder agrees to construct new Qualified Dwellings for purchase by Eligible Borrowers, and the Authority agrees to purchase Loans financing such newly constructed Qualified Dwellings, under the terms and conditions set forth in such agreement.

"Household Income": The total annualized gross income of all persons residing or intending to reside as a single household in a Qualified Dwelling, from whatever source derived and before taxes or withholdings.

"Lender": A State-chartered bank, national banking association, mortgage banking association or institution, credit union, or State or federal savings and loan association:

that is located and qualified to do business in the State;

that is qualified to sell mortgages to FNMA and/or FHLMC (this requirement may be waived by the Director after determination that the assets of the lender exceed \$500,000, that the percentage of mortgage delinquencies in the lender's single family portfolio do not exceed 2.15 times the Statewide average, as determined by the last quarterly pronouncement by the United States Federal Home Loan Bank Board, and that the lender has an asset-to-liability ratio of at least 1.01/1);

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whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, or that deposits its funds in State financial institutions whose deposits are insured by the Federal Deposit Insurance Corporation;

whose Lender Application under a Series Program has been accepted by the Director based upon the satisfaction of the requirements of that Series Program and a determination of financial suitability after consideration of the net assets, lending capacity, and experience of the lender over the past twelve (12) months in residential mortgage lending; and

if applicable, has been approved by the FHA, RECD or USVA, as the case may be. The Authority may also be a Lender.

"Lender Application": A prospective Lender's application under a Series Program to sell Loans to the Authority pursuant to the terms of a Mortgage Purchase Agreement and other Series Program documents.

"Loan": A Loan made by a Lender to an Eligible Borrower for the purchase, or the purchase and rehabilitation, of a Qualified Dwelling that is secured by a Mortgage on such Qualified Dwelling.

"Low-Income Household": A single person, family or unrelated persons living together whose adjusted income is more than 50%, but less than 80%, of the median income of the area of residence, adjusted for family size, as such adjusted income and median income for the area are determined from time to time by the United States Department of Housing and Urban Development for purposes of Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437).

"Members": The Members of the Authority.

"Mortgage": The mortgage, or other instrument in the nature of a mortgage, creating a first mortgage lien on a fee interest in real estate, together with all supplements, modifications or amendments to it.

"Mortgage Purchase Agreement": The agreement between a Lender and the Authority that sets forth the general requirements for, and the general terms and conditions under which the Authority will purchase, Loans.

"Net Proceeds": With respect to the proceeds of each series of Bonds, all moneys made available by the Authority for the purchase of Loans.

"Notes": The notes issued by the Authority pursuant to the Act and a

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

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Resolution from time to time to finance the Program.

"Notice of Acceptance": The Authority's notice to a Lender accepting its Lender Application.

"Notice of Reservation of Funds": The Authority's notice to a HomeBuilder (1) accepting its HomeBuilder Participation Agreement and (2) setting forth the amount of the HomeBuilder's Reservation.

"Part": This Part 366.

"Pool Insurance": The policy or policies of insurance insuring the Authority's exposure for loss in connection with defaults on Loans purchased by the Authority under a Series Program. The Authority may provide Pool Insurance or its equivalent.

"Pool Insurer": The insurer that the Authority selects pursuant to bid to provide Pool Insurance, or reinsurance for Pool Insurance, for a Series Program. The Authority may be a Pool Insurer.

"Private Mortgage Insurance": Insurance coverage paid for by the Eligible Borrower that insures the Authority against losses with respect to defaults on a Loan according to the terms of the insurance policy.

"Program": The Illinois Affordable Housing Bond Program.

"Property Value": The lesser of the purchase price and the appraised value of the Qualified Dwelling at the time of the origination of the Loan secured by such Qualified Dwelling; or in the case of a Loan for the purchase and rehabilitation of a Qualified Dwelling, the lesser of the purchase price and 110% of the appraised value of the Qualified Dwelling after the completion of rehabilitation.

"Qualified Dwelling": A fee simple interest in a single family residence:

that is located in the State;

upon which there is located a structure or structures designed for residential use;

that is a single family residence; a one-, two-, three- or four-unit structure; or factory-made housing that is permanently fixed to real property;

of which not more than five percent (5%) of the total area is reasonably expected to be used primarily in a trade or business;

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

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and

if applicable, meets the requirements of the FHA, RECD or USVA, as the case may be.

Qualified Dwelling does not include stock or any other ownership interest in a cooperative housing corporation or organization or factory-made housing not permanently fixed to real property.

"RECD": The United States Department of Agriculture, Rural Economic and Community Development.

"Reservation": The amount of funds reserved to a HomeBuilder in a Series Program pursuant to a HomeBuilder Participation Agreement and a Notice of Reservation of Funds.

"Resolution": Any Resolution or indenture adopted by the Authority pursuant to the Act authorizing the issuance of Bonds or Notes and setting forth the general terms and conditions under which the Authority may issue, deliver and sell Bonds and Notes, as amended and supplemented from time to time.

"Rules": The rules of the Authority, as amended and supplemented from time to time.

"Series Program": A mortgage purchase program authorized by a Resolution to become a part of the Program.

"Servicer": A Lender, or its designated servicer, that has been approved by the Director, Deputy Director or Assistant Director as a Servicer and that has executed a Servicing Agreement with the Authority. A designated servicer must be a State-chartered bank, national banking association, mortgage banking association or institution, credit union, or State or federal savings and loan association;

that is located and qualified to do business in the State;

that is qualified to sell mortgages to FNMA and/or FHLMC, unless such requirement is waived by the Director based upon a determination of financial suitability made by the Director after consideration of the net assets, servicing capacity, and experience of the potential Servicer over the past 12 months in residential mortgage servicing;

the deposits of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, or that deposits its funds in State financial

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Institutions whose deposits are insured by the Federal Deposit Insurance Corporation; and
if applicable, has been approved by the FHA, RECD and/or the USVA.

The Authority may also be a Servicer.

"Servicing Agreement": The agreement between a Servicer and the Authority that sets forth the general terms and conditions for the servicing of Loans purchased by the Authority.

"Single Family Program": A program under which the Authority purchases Loans on Qualified Dwellings.

"Special Hazard Insurance": Insurance that provides protection with respect to loss on properties acquired upon foreclosure of a defaulted Loan by reason of damage to properties caused by certain hazards (including earthquakes, and to a limited extent, tidal waves and related water damage) not insured against under a standard hazard insurance policy required to be obtained by each Eligible Borrower, or a flood insurance policy if the property is in a federally designated flood area. The Authority may provide Special Hazard Insurance or its equivalent.

"Staff": The Director, Deputy Director, Assistant Director and the other employees of the Authority.

"State": The State of Illinois.

"USVA": The United States Department of Veterans' Affairs.

"Very Low-Income Household": A single person, family or unrelated persons living together whose adjusted income is not more than 50% of the median income of the area of residence, adjusted for family size, as such adjusted income and median income for the area are determined from time to time by the United States Department of Housing and Urban Development for purposes of Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437).

Section 366.104 Borrowing by the Authority

To the extent allowed by State law, the Act and the Affordable Housing Act, the Authority may borrow funds with which to purchase Loans or incur other obligations under the Program.

Section 366.105 Standards

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In administering the Program, the Authority and the Staff, in those instances permitting the exercise of discretion, shall consider, in addition to the criteria specifically set forth in this Part, the following factors:

- a) the purpose of the Program;
- b) the financial condition and previous experience of potential and participating Lenders, Servicers and HomeBuilders;
- c) the Authority's ability to purchase or redeem the Bonds and to comply with the requirements of any Resolution;
- d) the financial integrity of the Program;
- e) the desirability of achieving a reasonable geographic distribution of Net Proceeds throughout the State; and
- f) the standards of the prudent lender or investor.

Section 366.106 Forms and Procedures for the Program

The Staff may prepare, use, supplement, and amend such forms, agreements, and other documentation and such procedures as may be necessary to implement the Program, all as may be prescribed by the Director, or, in the Director's absence, the Deputy Director or Assistant Director.

Section 366.107 Fees and Charges of the Authority

The Authority may establish and collect a Commitment Fee from each HomeBuilder executing a HomeBuilder Participation Agreement in an amount not to exceed three percent (3%) of such HomeBuilder's Reservation. The Authority shall return any Commitment Fee to any HomeBuilder with which it does not enter into a HomeBuilder Participation Agreement.

Section 366.108 Waiver

By Resolution, the Members may authorize the waiver or variance of particular provisions of this Part to conform to changes in the requirements of applicable State law. Upon the adoption of such a Resolution, the Authority shall submit a rulemaking that reflects such requirements of State law as expeditiously as possible.

Section 366.109 Amendment

This Part may be supplemented, amended, or repealed by the Members from time to time in accordance with the Illinois Administrative Procedure Act and in such manner as they may determine, consistent with the Rules, the Act, the Affordable Housing Act, the purposes of the Program and other applicable provisions of State law. This Part shall not constitute or create any contractual rights.

Section 366.110 Severability

If any clause, sentence, paragraph, subsection, Section, or Subpart of this

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Part shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subsection, Section, or Subpart to which such judgment is rendered.

Section 366.111 Gender and Number

All terms used in any one gender or number shall be construed to include any other gender or number as the context may require.

Section 366.112 Titles and Captions

Titles and captions of Subparts, Sections, and subsections are used for convenience and reference and are not a part of the text.

Section 366.113 Calendar Days

Days shall mean calendar days. Due dates falling on a Saturday, Sunday or legal State or federal holiday shall be deemed to fall on the next calendar day that is not a Saturday, Sunday, or legal State or federal holiday.

SUBPART B: APPROVAL OF SINGLE FAMILY PROGRAMS

Section 366.201 Establishment of Single Family Program

From time to time, the Authority may establish a Single Family Program. Any such Single Family Program may contain provisions for the purchase of Loans on Qualified Dwellings to be constructed by HomeBuilders selected pursuant to Subpart D of this Part.

Section 366.202 Staff Recommendation to the Advisory Commission

For each proposed Single Family Program, the Staff shall prepare and present to the Advisory Commission a report for the Advisory Commission's recommendation.

Section 366.203 Authority Determination

The Staff shall present to the Members all recommendations from the Advisory Commission for Single Family Programs. The Authority may use the proceeds of Bonds or Notes for the purchase of Loans under a Single Family Program only upon approval of such Single Family Program by Resolution of the Members.

SUBPART C: LENDER APPLICATION PROCESS

Section 366.301 Invitations to Sell Loans

Upon approval of a Single Family Program by the Members, the Authority may send application materials to potential Lenders inviting them to submit to the

Authority applications to participate in a Series Program. Lenders wishing to participate in such Series Program shall execute and return to the Authority the following documents: the Lender Application, the Mortgage Purchase Agreement (if not already executed) and the Servicing Agreement (if applicable and if not already executed). In addition, the Lender Application shall contain the following:

- a) The agreement of the prospective Lender, effective upon acceptance of the Lender Application by the Authority, to sell to the Authority Loans that comply with the terms of the Lender Application, the Notice of Acceptance and the Mortgage Purchase Agreement;
- b) The date by which the Lender Application must be submitted to the Authority;
- c) Provision for the prospective Lender to furnish such financial and other information as the Authority may reasonably require; and
- d) A statement of the maximum amount of fees and charges the Lender may charge a prospective Eligible Borrower in connection with a Loan.

Section 366.302 Notice of Acceptance

The Authority, by Notice of Acceptance, may commit itself, subject to the conditions set forth in the Lender Application and the Mortgage Purchase Agreement, to purchase Loans, as offered by a potential Lender in its Lender Application. Immediately after the Authority has issued its Notice of Acceptance to the Lender, the Authority shall execute a Mortgage Purchase Agreement (if not previously executed) with such Lender. Upon receipt of the Notice of Acceptance, the Lender shall be eligible to originate and sell to the Authority Loans in accordance with the terms of the Lender Application, the Notice of Acceptance and the Mortgage Purchase Agreement. The obligation of the Authority to purchase any Loan shall be subject to the issuance and sale of Bonds by the date set forth in the Lender Application in an amount sufficient to permit such purchase.

Section 366.303 Commitments for Loans

Upon the date indicated on the Notice of Acceptance, the Lender may begin to issue commitments to Eligible Borrowers to make Loans. The Lender may continue to issue firm commitments for the period set forth in the Notice of Acceptance. All Loans shall be closed by the date indicated in the Notice of Acceptance.

SUBPART D: HOMEBUILDER APPLICATION PROCESS

Section 366.401 HomeBuilder Invitations

Upon approval by the Members of a Single Family Program containing provisions for the purchase of Loans on Qualified Dwellings to be constructed by HomeBuilders, the Authority may send application materials to potential HomeBuilders inviting them to submit to the Authority requests to participate in a Series Program. Such requests shall state the amount of the HomeBuilder's

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requested Reservation. HomeBuilders wishing to participate in such Series Program shall execute and return to the Authority the HomeBuilder Participation Agreement. The HomeBuilder Participation Agreement shall contain among other things, the following:

- a) The unconditional agreement of the prospective HomeBuilder, effective upon execution of the HomeBuilder Participation Agreement by the Authority, to construct Qualified Dwellings for sale to Eligible Borrowers that comply with the terms of the Notice of Reservation of Funds and the HomeBuilder Participation Agreement;
- b) Provision for the prospective HomeBuilder to provide such information about the HomeBuilder's construction activities during the period of 24 months prior to the date of the HomeBuilder Participation Agreement and such other information as the Authority may reasonably require; and
- c) A statement of the amount of any required Commitment Fee.

Section 366.402 Reservation of Funds for Construction of Qualified Dwellings

The Authority may make Reservations for prospective HomeBuilders from which the Authority has received timely HomeBuilder Participation Agreements and Commitment Fees (if required). In making such Reservations, the Authority shall consider with respect to each such prospective HomeBuilder the number of residential homes and other structures constructed by the HomeBuilder in the State within the 24 month period prior to the date of its HomeBuilder Participation Agreement; the Reservations requested by all prospective HomeBuilders for the Series Program; and the participation of the HomeBuilder in the Authority's previous Series Programs. Reservations shall be conclusive, subject to the adjustments permitted in Section 366.405 of this Part.

Section 366.403 Notice of Reservation of Funds

The Authority may commit itself by Notice of Reservation of Funds, subject to the terms and conditions set forth in the HomeBuilder Participation Agreement, to make a Reservation for a prospective HomeBuilder for the construction of Qualified Dwellings for Eligible Borrowers under a Series Program. Contemporaneously with the issuance of the Notice of Reservation of Funds to the HomeBuilder, the Authority shall execute the HomeBuilder Participation Agreement with that HomeBuilder. The amount of the Reservation for the HomeBuilder shall not exceed, and may be less than, such HomeBuilder's requested Reservation. Upon receipt of the Notice of Reservation of Funds, the HomeBuilder shall be obligated to construct Qualified Dwellings in accordance with the terms of the HomeBuilder Participation Agreement. The Reservation to the HomeBuilder shall be subject to the issuance and sale of Bonds by the date set forth in the HomeBuilder Participation Agreement in an amount sufficient to permit such Reservation.

Section 366.404 Real Estate Purchase Contracts

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Upon receipt of the Notice of Reservation of Funds, the HomeBuilder shall construct Qualified Dwellings for sale to Eligible Borrowers. The HomeBuilder shall enter into standard residential purchase contracts with prospective Eligible Borrowers and refer such Eligible Borrowers to Lenders participating in the Series Program to obtain Loans in connection with the purchase of Qualified Dwellings. All Qualified Dwellings shall be constructed and sold to Eligible Borrowers by the date indicated in the HomeBuilder Participation Agreement.

Section 366.405 Transfer of Reserved Funds

If a HomeBuilder fails or is unable to construct and sell Qualified Dwellings in the amount of its Reservation on the terms and conditions, and within the time period, set forth in the HomeBuilder Participation Agreement, the Authority may, at the request of the HomeBuilder, reallocate all or a part of the unused portion of the HomeBuilder's Reservation to other HomeBuilders or to other projects within the Series Program in which the HomeBuilder is participating; redeem all or part of the Bonds issued with respect to such unused portion of the Reservation, but only if permitted by the Series Resolution authorizing the issuance of the Bonds; or undertake a combination of the above.

SUBPART E: PURCHASE OF LOANS**Section 366.501 Loans**

Each Loan to be purchased under the Program shall comply with the terms of the Lender Application, the HomeBuilder Participation Agreement (if applicable), the Notice of Acceptance, and the Mortgage Purchase Agreement and shall specifically comply with the following requirements:

- a) The original principal amount of each Loan, unless such Loan is the subject of insurance or guaranty by the FHA, RECD or the USVA, shall not exceed 97% of the Property Value. If such Loan is the subject of insurance or guaranty by the FHA, RECD or USVA, the principal amount of the Loan shall not exceed the amount approved by such agency. Each Loan that has a Loan-to-Property Value ratio in excess of 80% at the time of origination shall:
 - 1) be insured by a private mortgage insurer licensed to do business in the State and qualified to insure single family mortgages purchased by the FHLMC or successor federal agency to the extent, if any, required, so that the uninsured portion of such Loan shall not exceed 72% of the Property Value; or
 - 2) be subject to insurance or guaranty by the FHA or USVA or any other agency or instrumentality of the United States of America having similar powers to insure or guarantee mortgage loans.
- b) Each Loan to be purchased by the Authority shall be secured by a Mortgage on a Qualified Dwelling and shall also meet the applicable terms and conditions set forth in the HomeBuilder Participation

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Agreement (if applicable), the Lender Application, the Notice of Acceptance and the Mortgage Purchase Agreement. Lenders shall sell to the Authority, and the Authority shall purchase, only Loans made to Eligible Borrowers.

- c) Each Mortgage securing a Loan to be purchased by the Authority shall:
 - 1) be executed on a form approved by the Authority;
 - 2) be a valid first mortgage lien on a Qualified Dwelling;
 - 3) be consistent with Illinois law; and
 - 4) conform with the requirements prescribed by the Authority and any applicable insurer.
- d) Each Loan to be purchased by the Authority shall be non-assumable and non-assignable, unless otherwise required by applicable State or federal law, and shall contain a provision giving the Authority the right to accelerate the maturity of the Loan upon sale or lease of the Qualified Dwelling.
- e) The Authority shall not purchase any Loan if, on the date of purchase, the obligor of the Loan is delinquent in the payment of any installment of principal, interest or other amounts due under the terms of such Loan.
- f) The Authority may foreclose Mortgages held as security for Loans purchased under this Part that are in default according to their terms, or reassign such Mortgages to the Lender in accordance with the terms of the Mortgage Purchase Agreement. The Authority may take title in its name upon foreclosure and subsequently convey title to such property to any qualified insurer of the mortgage or any bona fide purchaser of the property.

Section 366.502 Terms and Conditions of the Purchase of Loans

- a) The Authority shall purchase Loans on the terms and conditions and in the manner prescribed in the Mortgage Purchase Agreement. The Mortgage Purchase Agreement shall contain such warranties of the Lender in connection with the Loans to be sold thereunder as the Authority shall require, and shall include, among others, the following warranties:

- 1) The mortgagor is an Eligible Borrower;
- 2) The Loan is evidenced by a properly executed promissory note made payable or assigned to the order of the Lender, endorsed by the Lender to the Authority and is secured by a Mortgage on the Qualified Dwelling; both the note and the Mortgage are the legal, valid, and binding obligations of their makers and mortgagors and are enforceable in accordance with their terms, except only as such enforcement may be limited by laws affecting the enforcement of creditors' rights generally; and all parties to each Loan had full legal capacity to execute all Loan documents at the time of execution;
- 3) The Mortgage and any other document required to be filed in a public office to perfect the mortgage lien against third parties

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have been duly and timely filed, registered, or recorded by the Lender in the proper public office in order to give constructive notice of such mortgage lien to all subsequent purchasers or encumbrancers;

- 4) The Lender, as the sole owner and holder of the Loan, has full right to sell and assign the Loan to the Authority and such assignment conveys a good and marketable mortgagee's title to the Authority free and clear of all liens and encumbrances and subject only to real property taxes and assessments not yet due and encumbrances customarily accepted in accordance with applicable title standards and disclosed to the Authority prior to purchase of the Loan;
- 5) The Mortgage creates a valid and existing first mortgage lien on the Qualified Dwelling to secure the Loan, subject to easements and other matters affecting title generally acceptable to lenders making mortgage loans in the State;
- 6) The Lender has not modified in any respect and has not satisfied, canceled, subordinated, or compromised in whole or in part the Loan indebtedness and has not released the mortgaged property in whole or in part from the lien of the indebtedness evidenced by the note and secured by the Mortgage, and the terms, covenants, and conditions of the note evidencing the Loan and the Mortgage securing the Loan have not been waived, altered, or modified in any respect that would materially affect the validity or enforceability of the Loan or the security of the lien of the Mortgage;
- 7) The real property securing the Loan is a Qualified Dwelling;
- 8) The Qualified Dwelling is covered by a valid and existing policy of hazard insurance meeting the requirements of the Authority;
- 9) The Lender has complied as follows:
 - A) as to each FHA-insured Loan, with the National Housing Act, 12 U.S.C. Section 1701 et seq., as amended and supplemented, all rules and regulations issued thereunder and all administrative publications. The FHA insurance shall be in full force and effect and, upon purchase by the Authority of the Loan, shall inure to the benefit of the Authority;
 - B) as to each Loan guaranteed by the USDA or RECD, with the Servicemen's Readjustment Act, 38 U.S.C. Section 1803 et seq., the Consolidated Farm and Rural Development Act, 7 U.S.C. Section 1921 et seq., Title V of the Housing Act of 1949, 42 U.S.C. Sections 1471-1482, or other applicable federal law as amended and supplemented, all rules and regulations issued thereunder and all administrative publications. Any such guaranty shall be in full force and effect and, upon purchase by the Authority of the Loan, shall inure to the benefit of the Authority; and
 - C) as to each Loan insured by a private mortgage insurance company, with all rules and requirements of such company.

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Any such insurance shall be in full force and effect and, upon purchase by the Authority of the Loan, shall inure to the benefit of the Authority;

- 10) The Loan is covered by a fully paid mortgagee's title insurance policy in such form as the Authority may require; and
- 11) To the best of Lender's information, knowledge and belief, no condition exists that would prohibit the purchase of the Loan by the Authority under all applicable rules, regulations and contractual provisions.
- b) The Mortgage Purchase Agreement shall provide that the Authority shall have the right to require the Lender to repurchase Loans sold to the Authority by the Lender if the Director, Deputy Director or Assistant Director determines that the Lender has failed to comply with the requirements of either this Part or its contracts and agreements with the Authority under the Program.

Section 366.503 Mortgage Pool Insurance

If required by the applicable Series Resolution, the Authority shall obtain Pool Insurance for each Series Program in an amount not less than that percentage of the original aggregate principal amount of the Loans authorized by such Series Resolution. Such Pool Insurance shall insure the Authority against losses arising from an event of default under any Loan covered by the policy in an amount equal to the unpaid principal balance of, and accrued interest on, the Loan and customary fees and expenses paid by the Authority to preserve and protect the mortgaged premises and to foreclose or otherwise dispose of such premises, such as real estate taxes, hazard and private insurance premiums and foreclosure expenses, less the amount received by the Authority under any other insurance policy on the Loan or from disposition of such premises or substantially similar benefits.

Section 366.504 Special Hazard Insurance

If required by the applicable Series Resolution, the Authority shall obtain Special Hazard Insurance for such Series Program in the amount required by such Series Resolution.

SUBPART F: ADMINISTRATIVE RULES

Section 366.601 Servicing of Loans

The Authority shall cause all Loans purchased by the Authority to be serviced by a Servicer pursuant to the Servicing Agreement.

Section 366.602 Equal Opportunity Lending

In making Loans, the Lender shall not deny such Loans to any person or persons or discriminate against such person or persons in fixing the amount, interest

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rate, duration, or other terms and conditions of such Loans on account of race, color, religion, age, sex, marital status, familial status, handicap, ancestry, national origin, or unfavorable military discharge; and shall otherwise be subject to all State and federal requirements with respect to non-discrimination in lending.

Section 366.603 Inspection of Books and Records

Upon prior written notice, the Authority may inspect, examine, and copy the books and records of each Lender for the purpose of determining compliance with the Authority's Rules, the Act, the Affordable Housing Act and all contracts and agreements between the Authority and such Lender relating to the Program.

Section 366.604 Termination

The Authority shall retain the right to establish procedures for the termination of its obligation to purchase Loans associated with any particular issue of Bonds under the Program, subject to applicable State law and to its existing contractual obligations, including contractual obligations arising under a HomeBuilder Participation Agreement, a Lender Application, a Notice of Acceptance, a Mortgage Purchase Agreement and a Servicing Agreement.

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1) Heading of the Part: Aid to Families with Dependent Children

2) Code Citation: 89 Ill. Adm. Code 112

3) Section Numbers: Adopted Action:

112.148 Amendment

112.300 Amendment

112.306 Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, par. 12-13)(305 ILCS 5/12-13), P. L. 100-203, P. L. 101-508 and 45 CFR 233.20.

5) Effective Date of Amendments: June 5, 1995

6) Does this rulemaking contain an automatic repeal date? No

7) Do these Amendments contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: June 5, 1995

9) Notice of Proposal Published in Illinois Register: January 27, 1995 (19 Ill. Reg. 804)

10) Has JCAR issued a Statement of Objections to these Adopted Amendments? No

11) Differences between proposal and final version: The following changes were made to the text of the proposed amendments:

1. In Section 112.148(a), the period which follows "if any" was deleted.

2. In Section 112.300(e), "relative" was added after "caretaker".

3. In Sections 112.306(a)(2) and (4), the final periods were replaced with semicolons.

4. All Section Source notes, were changed to "19 Ill. Reg.".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these Amendments replace Emergency Amendments currently in effect?
No

14) Are there any Amendments pending on this Part? Yes

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Sections Proposed Action Illinois Register Citation

112.67

Amendment

May 5, 1995 (19 Ill. Reg. 6257)

15) Summary and Purpose of Amendments: Section 9133 of P. L. 100-203 (OBRA-87) amended section 475(4) of title IV-E to provide that where a child lives with his or her minor parent in the same foster family home or child-care institution, the foster care payment of the minor parent must include an amount necessary to cover the maintenance and other costs for the well-being of the child. This section also amended section 402(a)(24) of title IV-A of the Social Security Act to require that, for the period for which such costs are covered, the child will not be regarded as a member of an AFDC assistance unit for purposes of determining the amount of assistance and his or her income and resources shall not be attributed to the AFDC assistance unit.

In accordance with federal law and regulations concerning AFDC and AFDC-F, these amendments establish that a child receiving foster care and his or her child or children are not eligible for AFDC cash assistance. They are eligible for medical assistance under AFDC-F. This rulemaking also provides that a specified relative caring for a foster child or children in their home may qualify for AFDC (adult only) cash and/or medical assistance.

16) Information and questions regarding these Adopted Amendments shall be directed to:

Name: Judy Umunna

Address:

Bureau of Rules and Regulations
Illinois Department of Public Aid
100 South Grand Avenue East, Third Floor
Springfield, Illinois 62762

Telephone: (217) 524-3215

The full text of the Adopted Amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF PUBLIC AID

SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 112

AID TO FAMILIES WITH DEPENDENT CHILDREN

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112.5 Incorporation by Reference

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SUBPART C: JOB OPPORTUNITIES AND BASIC SKILLS TRAINING (JOBS) PROGRAM

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112.79 JOBS Sanctions
112.80 Good Cause for Failure to Comply with JOBS Participation Requirements
112.81 Responsible Relative Eligibility for JOBS
112.82 JOBS Supportive Services
112.83 Young Parents Program
112.84 Work Experience Evaluation Project
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 112.416 Fees for Service for Transitional Child Care
 112.418 Rates of Payment for Transitional Child Care

AUTHORITY: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, pars. 4-1 et seq. and 12-13) [305 ILCS 5/Art. IV and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979, peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective

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September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 611, effective January 1, 1982, amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 11, 1983; rules repealed and new rules adopted and codified at 7 Ill. Reg. 2720, effective February 28, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 11284, effective August 26, 1983; amended at 7 Ill. Reg. 13920, effective October 7, 1983; amended at 7 Ill. Reg. 15690, effective November 9, 1983; amended (by adding sections being codified with no substantive change) at 7 Ill. Reg. 16105; amended at 7 Ill. Reg. 17344, effective December 21, 1983; amended at 8 Ill. Reg. 213, effective December 27, 1983; emergency amendment at 8 Ill. Reg. 569, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 4176, effective March 19, 1984; amended at 8 Ill. Reg. 5207, effective April 9, 1984; amended at 8 Ill. Reg. 7226, effective May 16, 1984; amended at 8 Ill. Reg. 11391, effective June 27, 1984; amended at 8 Ill. Reg. 12333, effective June 29, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17994; peremptory amendment at 8 Ill. Reg. 18127, effective October 1, 1984; peremptory amendment at 8 Ill. Reg. 19889, effective October 1, 1984; amended at 8 Ill. Reg. 19983, effective October 3, 1984; emergency amendment at 8 Ill. Reg. 21666, effective October 19, 1984, for a maximum of 150 days; amended at 8

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Ill. Reg. 21621, effective October 23, 1984; amended at 8 Ill. Reg. 25023, effective December 19, 1984; amended at 9 Ill. Reg. 282, effective January 1, 1985; amended at 9 Ill. Reg. 4062, effective March 15, 1985; amended at 9 Ill. Reg. 8155, effective May 17, 1985; emergency amendment at 9 Ill. Reg. 10094, effective June 19, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11317, effective July 5, 1985; amended at 9 Ill. Reg. 12795, effective August 9, 1985; amended at 9 Ill. Reg. 15887, effective October 4, 1985; amended at 9 Ill. Reg. 16277, effective October 11, 1985; amended at 9 Ill. Reg. 17827, effective November 18, 1985; emergency amendment at 10 Ill. Reg. 354, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 1172, effective January 10, 1986; amended at 10 Ill. Reg. 3641, effective January 30, 1986; amended at 10 Ill. Reg. 4885, effective March 7, 1986; amended at 10 Ill. Reg. 8118, effective May 1, 1986; amended at 10 Ill. Reg. 10628, effective June 1, 1986; amended at 10 Ill. Reg. 11017, effective June 6, 1986; Sections 112.78 through 112.86 and 112.88 recodified to 89 Ill. Adm. Code 160 at 10 Ill. Reg. 11928; emergency amendment at 10 Ill. Reg. 12107, effective July 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 12650, effective July 14, 1986; amended at 10 Ill. Reg. 14681, effective August 29, 1986; amended at 10 Ill. Reg. 15101, effective September 5, 1986; amended at 10 Ill. Reg. 15621, effective September 19, 1986; amended at 10 Ill. Reg. 21860, effective December 12, 1986; amended at 11 Ill. Reg. 2280, effective January 16, 1987; amended at 11 Ill. Reg. 3140, effective January 30, 1987; amended at 11 Ill. Reg. 4682, effective March 5, 1987; amended at 11 Ill. Reg. 5223, effective March 11, 1987; amended at 11 Ill. Reg. 6228, effective March 20, 1987; amended at 11 Ill. Reg. 9927, effective May 15, 1987; amended at 11 Ill. Reg. 12003, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 12432, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 12908, effective July 30, 1987; emergency amendment at 11 Ill. Reg. 12935, effective August 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13625, effective August 1, 1987; amended at 11 Ill. Reg. 14755, effective August 26, 1987; amended at 11 Ill. Reg. 18679, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 18781, effective November 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20114, effective December 4, 1987; Sections 112.90 and 112.95 recodified to Sections 112.52 and 112.54 at 11 Ill. Reg. 20610; amended at 11 Ill. Reg. 20889, effective December 14, 1987; amended at 12 Ill. Reg. 844, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1929, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 2126, effective January 12, 1988; SUBPARTS C, D and E recodified to SUBPARTS G, H and I at 12 Ill. Reg. 2136; amended at 12 Ill. Reg. 3487, effective January 22, 1988; amended at 12 Ill. Reg. 6159, effective March 18, 1988; amended at 12 Ill. Reg. 6694, effective March 22, 1988; amended at 12 Ill. Reg. 7336, effective May 1, 1988; amended at 12 Ill. Reg. 7673, effective April 20, 1988; amended at 12 Ill. Reg. 9032, effective May 20, 1988; amended at 12 Ill. Reg. 10481, effective June 13, 1988; amended at 12 Ill. Reg. 1412, effective August 30, 1988; amended at 12 Ill. Reg. 14669, effective September 16, 1988; amended at 13 Ill. Reg. 70, effective January 1, 1989; amended at 13 Ill. Reg. 6017, effective April 14, 1989; amended at 13 Ill. Reg. 8567, effective May 22, 1989; amended at 13 Ill. Reg. 16006, effective October 6,

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1989; emergency amendment at 13 Ill. Reg. 16142, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 14 Ill. Reg. 705, effective January 1, 1990; amended at 14 Ill. Reg. 3170, effective February 13, 1990; amended at 14 Ill. Reg. 3575, effective February 23, 1990; amended at 14 Ill. Reg. 6306, effective April 16, 1990; amended at 14 Ill. Reg. 10379, effective June 20, 1990; amended at 14 Ill. Reg. 13652, effective August 10, 1990; amended at 14 Ill. Reg. 14140, effective August 17, 1990; amended at 14 Ill. Reg. 16937, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 338, effective January 1, 1991, for a maximum of 150 days; emergency amendment at 15 Ill. Reg. 2862, effective February 4, 1991, for a maximum of 150 days; emergency expired July 4, 1991; amended at 15 Ill. Reg. 5275, effective April 1, 1991; amended at 15 Ill. Reg. 5684, effective April 10, 1991; amended at 15 Ill. Reg. 11127, effective July 19, 1991; amended at 15 Ill. Reg. 11447, effective July 25, 1991; amended at 15 Ill. Reg. 14227, effective September 30, 1991; amended at 15 Ill. Reg. 17308, effective November 18, 1991; amended at 16 Ill. Reg. 9972, effective June 15, 1992; amended at 16 Ill. Reg. 11550, effective July 15, 1992; emergency amendment at 16 Ill. Reg. 11652, effective July 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 13629, effective September 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 17724, effective November 9, 1992; amended at 16 Ill. Reg. 20147, effective December 14, 1992; amended at 17 Ill. Reg. 357, effective December 24, 1992; amended at 17 Ill. Reg. 813, effective January 15, 1993; amended at 17 Ill. Reg. 2253, effective February 15, 1993; amended at 17 Ill. Reg. 4312, effective March 25, 1993; emergency amendment at 17 Ill. Reg. 6325, effective April 9, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 6792, effective April 21, 1993; amended at 17 Ill. Reg. 15017, effective September 3, 1993; amended at 17 Ill. Reg. 19156, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 19696, effective November 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 5909, effective March 31, 1994; amended at 18 Ill. Reg. 6994, effective April 27, 1994; amended at 18 Ill. Reg. 8703, effective June 1, 1994; amended at 18 Ill. Reg. 10774, effective June 27, 1994; amended at 18 Ill. Reg. 12805, effective August 5, 1994; amended at 18 Ill. Reg. 15774, effective October 17, 1994; expedited correction at 19 Ill. Reg. 998, effective October 17, 1994; amended at 19 Ill. Reg. 2845, effective February 24, 1995; amended at 19 Ill. Reg. 5609, effective March 31, 1995; amended at 19 Ill. Reg. 7883, effective JUN 05 1995.

SUBPART G: FINANCIAL FACTORS OF ELIGIBILITY

Section 112.148 Payments from the Illinois Department of Children and Family Services

Foster Care Payments

- a) The following foster care payments made by the Department of Children and Family Services (DCFS) are to be considered exempt unearned income when determining the eligibility of the assistance unit (exclusive of the foster child and his or her child or children, if any).

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- 1) Basic maintenance payments.
- 2) Special service fee payments.
- 3) Intensive service fee payments.
- 4) Monthly retainer fee payments.
- 5) Adoption Subsidies.
- b) Independent living arrangement payments.
 - 1) Payments made by DCFS to wards living independently of a foster home shall be considered nonexempt unearned income when determining the eligibility of the ward and his or her child or wards children for cash assistance.
 - 2) Wards of DCFS who are receiving Independent Living Arrangement payments must may be included in the assistance unit with their child or children, if otherwise eligible.

(Source: Amended at 19 Ill. Reg. 7883, effective JUN 05 1995)

SUBPART I: OTHER PROVISIONS

Section 112.300 Persons Who May Be Included in the Assistance Unit

- a) The assistance unit must include at least one eligible child.
 - 1) No more than two of the following individuals may also be included as adults:
 - A) The caretaker relative;
 - B) The parent of an eligible child;
 - C) The spouse of the caretaker relative if the caretaker relative is a parent of one of the children and the spouse lives in the home; or
 - D) A needy relative other than the caretaker relative whose presence is essential in the home to provide care for the eligible children.
 - 2) An individual is defined as needy if the individual's income minus employment deductions, if appropriate, is less than a "per person" grant amount (per-payment level divided by the number in the assistance unit, including the essential person).
- b) In order for an assistance unit to be eligible, an application with respect to a dependent child must also include, if living in the same household and otherwise eligible for assistance:
 - 1) Any natural or adoptive parent of the dependent child; and
 - 2) Any blood-related or adoptive brother or sister of the dependent child.
- c) The eligibility of a child in an Assistance assistance unit depends on that child's lack of parental support or care. All eligible dependent children, blood related siblings and stepchildren in a family unit shall be included in a single case.
- d)
 - 1) A pregnant woman, who would be eligible for AFDC when the child

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is born, may receive assistance as an Adult only. Financial assistance is limited to the last four months of pregnancy.

- 2) A pregnant woman who is receiving or is eligible to receive cash assistance as a dependent child in an AFDC case is not eligible for cash assistance as an Adult only pregnant woman.

- e) The caretaker ~~relative~~ relative or relatives of a child receiving SSI or Foster Care/Adoption Assistance who would otherwise be eligible for AFDCr may receive assistance as an Adult only case.

- f) A child on Foster Care Assistance (except Independent Living) and the foster child's own child or children are not eligible for AFDC cash assistance.

(Source: Amended at 19 Ill. Reg. 7883, effective JUN 05 1995)

Section 112.306 Foster Care Program

- a) A child is eligible for Aid to Families with Dependent Children - Foster Care (AFDC - F) when:

- 1) The child has been removed from the home of a specified relative as a result of court action, is a child for whom DCFS is legally responsible, and has been placed in foster care (foster care home, or private non-profit, group home institution) which is licensed or approved by the Department of Children and Family Services;

- 2) The child was eligible for and receiving AFDC in or for the month in which court action was initiated leading to placement;

- 3) The child met the citizenship, age, residence, need, and lack of parental support or care criteria for AFDC at the time of initiation of court action and lived with a specified relative at any time within the six ~~6~~ months prior to the initiation of court action leading to placement;

- 4) The child continues to meet AFDC eligibility requirements of age, need, lack of parental support or care, and registration/participation requirements;

- 5) A child who lives with a parent receiving AFDC-F may also receive AFDC-F.

- b) An application for AFDC-F must be signed by an authorized representative of the Department of Children and Family Services.

- c) Assistance under the AFDC-F program is effective from the latter of the date:

- 1) that a completed application is received by the Department, or

- 2) the child is actually placed in foster care.

- d) A foster parent who is a specified relative of an eligible foster child placed in the foster parent's care may receive assistance for the child under either the AFDC-R/AFDC-U or the AFDC-F program.

(Source: Amended at 19 Ill. Reg. 7883, effective

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- 1) Heading of the Part: Crisis Assistance
- 2) Code Citation: 89 Ill. Adm. Code 116
- 3) Section Numbers: Adopted Action:
 116.400 Amendment
 116.510 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, par. 12-13)(305 ILCS 5/12-13).
- 5) Effective Date of Amendments: June 5, 1995
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these Amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: June 5, 1995
- 9) Notice of Proposal Published in Illinois Register: January 27, 1995 (19 Ill. Reg. 824)
- 10) Has JCARE issued a Statement of Objections to these Adopted Amendments? No
- 11) Differences between proposal and final version: The following changes were made to the text of the proposed amendments:
1. In Sections 116.400(b)(1) and (3), the ILCS citations were placed inside the parenthetical reference to Section 4-12.
 2. In Section 116.510(e), "authorized" was inserted after "emergency assistance".
- 12) Have all the changes agreed upon by the agency and JCARE been made as indicated in the agreement letter issued by JCARE? Yes
- 13) Will these Amendments replace Emergency Amendments currently in effect?
 No
- 14) Are there any Amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: To enhance federal financial participation, these amendments add children and families who receive services from the Department of Children and Family Services (DCFS) to the list of groups eligible to receive Special Assistance and Emergency Assistance. This rulemaking also extends the timeframe for those served by homeless shelters.

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As a result of these amendments, Emergency Assistance may be provided for children and families served by DCFS who are in the following situations:

1. Children who are abused, neglected, dependent or abandoned;
2. Children who are in emergency situations where continued presence in the home is not in the best interests of the child; and
3. Children who are at risk of removal from the home because of abuse, neglect, or inability of parents to provide care.

The following kinds of assistance may be authorized for children and families served by DCFS:

1. Shelter care, relative and non-relative foster care, residential, group care or any other appropriate placement for children separated from their parents;
2. Housing advocacy, shelter repairs, utilities, cash assistance, furniture, transportation and other assistance to prevent placement of a child;
3. Case management, counseling, therapy, psychological testing and evaluation or any other service provided; and
4. Parenting education and training, household management training, homemaker support services and any other service provided to alleviate emergency condition.

This rulemaking establishes that for DCFS and Homeless Family Project Emergency Assistance, Emergency Assistance for children and families must be authorized within a single 30-day period no less than 12 months after the beginning of the family's last Emergency Assistance period. The recipient may only receive emergency assistance authorized during one period of 30 consecutive days in any 12 consecutive months. For homeless shelter, however, the maximum duration is 180 days or less as necessary to alleviate the emergency condition.

- 16) Information and questions regarding these Adopted Amendments shall be directed to:

Name: Judy Umunna
 Address: Bureau of Rules and Regulations
 Illinois Department of Public Aid
 100 South Grand Avenue East, Third Floor
 Springfield, Illinois 62762
 Telephone: (217) 524-3215

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NOTICE OF ADOPTED AMENDMENTS

The full text of the Adopted Amendments begins on the next page:

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 116

CRISIS ASSISTANCE

Section

116.10 Incorporation By Reference
116.400 Crisis Assistance Programs
116.500 Special Assistance Program
116.510 Emergency Assistance Program
116.520 Hardship Program (Repealed)

AUTHORITY: Implementing Articles III, IV, and VI and authorized by Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, pars. 3-1 et seq., 4-1 et seq., 6-1 et seq. and 12-13) [305 ILCS 5/Arts. III, IV and VI and 12-13].

SOURCE: Filed and effective December 30, 1977; amended at 4 Ill. Reg. 13, p. 1287, effective March 17, 1980; amended at 5 Ill. Reg. 12722, effective October 28, 1981; codified at 7 Ill. Reg. 5195; emergency amendment at 9 Ill. Reg. 18154, effective November 15, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 11027, effective June 11, 1986; amended at 11 Ill. Reg. 6487, effective March 17, 1987; amended at 12 Ill. Reg. 14207, effective August 30, 1988; amended at 13 Ill. Reg. 3847, effective March 10, 1989; amended at 14 Ill. Reg. 16970, effective September 30, 1990; amended at 15 Ill. Reg. 16719, effective November 1, 1991; emergency amendment at 15 Ill. Reg. 16772, effective November 1, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 5350, effective March 20, 1992; emergency amendment at 16 Ill. Reg. 13961, effective September 1, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 1078, effective January 15, 1993; amended at 17 Ill. Reg. 19188, effective October 25, 1993; amended at 19 Ill. Reg. 7895, effective

JUN 5 1995

Section 116.400 Crisis Assistance Programs

- a) The Department administers Crisis Assistance Programs which include the Special Assistance Program and the Emergency Assistance Program.
- b) The following groups of families are eligible for the Special Assistance and Emergency Assistance Programs:
 - 1) Families that receive aid to families with dependent children (AFDC) financial assistance or who meet all the eligibility criteria of the AFDC program (see 89 Ill. Adm. Code 112) (Section 4-12 of the Illinois Public Aid Code, Ill. Rev. Stat. 1991, ch. 23, par. 4-12 [305 ILCS 5.4-12]);
 - 2) Families, ~~eligible for AFDC financial assistance that contain~~ a child under age 21 and meet the financial eligibility criteria

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of the AFDC program. However, families ineligible for AFDC are not eligible for Special Assistance for non-medical needs related to essential medical care;

- 3) *Pregnant women whose pregnancy has been medically confirmed who would be eligible for the AFDC program if the child were born (Section 4-12 of the Illinois Public Aid Code, Ill. Rev. Stat. 1991, ch. 23, par. 4-12 [305 ILCS 5/4-12]); and*

- 4) *Children and families who receive services from the Department of Children and Family Services (DCFS).*

- c) Assistance provided through any of the Crisis Assistance Programs shall not be considered as income in computing the regular assistance grant.

(Source: Amended at 19 Ill. Reg. 7895, effective JUN 05 1995)

Section 116.510 Emergency Assistance Program

Emergency Assistance may be provided in the following situations:

- a) Lost or Stolen Cash
When as a result of lost or stolen cash, a family is deprived of food or essential clothing, the following amounts may be authorized:

- 1) Food, in amounts as specified in Section 116.500(c) and not to exceed the amount of cash which was lost or stolen.

- 2) Essential clothing, as defined and in amounts as specified in Section 116.500(b) and (c) and not to exceed the amount of cash which was lost or stolen.

- b) Court Ordered Eviction Due to Non-Payment of Rent
When a family is deprived of shelter or threatened with immediate deprivation of shelter due to court order requiring eviction due to non-payment of rent, payment for rent shall, if all eligibility criteria for the Emergency Assistance Program are met, be authorized in an amount not to exceed the following maximums:

	Rent
Counties	
Group I Counties	\$142.00
Group II Counties	\$123.00
Group III Counties	\$ 87.00
(See 89 Ill. Adm. Code 113.258 for County Groupings)	

- c) Emergency Shelter
The Department shall reimburse private and public social service agencies with whom the Department has written agreements for emergency shelter and food provided to recipients. Reimbursement shall be made in amounts and in accordance with those agreements.

- d) Emergency Assistance for DCFS Children and Families.
1) Emergency Assistance may be provided for children and families served by DCFS who are in the following situations:

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- A) Children who are abused, neglected, dependent or abandoned;
B) Children who are in emergency situations where continued presence in the home is not in the best interests of the child; and

- C) Children who are at risk of removal from the home because of abuse, neglect, or inability of parents to provide care.

- 2) For children and families served by DCFS the following kinds of assistance may be authorized:

- A) Shelter care, relative and non-relative foster care, residential, group care or any other appropriate placement for children separated from their parents;

- B) Housing advocacy, shelter repairs, utilities, cash assistance, furniture, transportation and other assistance to prevent placement of a child;

- C) Case management, counseling, therapy, psychological testing and evaluation or any other service provided; and

- D) Parenting education and training, household management training, homemaker support services and any other service provided to alleviate emergency condition.

- 3) Program Restrictions - DCFS and Homeless Family Project Emergency Assistance
Emergency Assistance for children and families must be authorized within a single 30-day period no less than 12 months after the beginning of the family's last Emergency Assistance period.

- e) Program Restrictions - IDPA Emergency Assistance Restriction
The recipient may only receive emergency assistance authorized during one period of thirty-(30) consecutive days in any twelve-(12) consecutive months. This may include payments to meet needs which occur before or extend beyond the thirty-(30) day period. For homeless shelter, the maximum duration is 180 days or less as necessary to alleviate the emergency condition. For recipients participating in the Homeless Families Support Project, see Section 170.30.

- f) Time Limits -
1) A decision shall be made and assistance authorized within the time frames established in Section 116.500(d).

- 2) Payment shall be made to the private and public social services agencies, within time limits specified in the written agreements.

(Source: Amended at 19 Ill. Reg. 7895, effective JUN 05 1995)

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- 1) Heading of the Part: Demonstration Programs
- 2) Code Citation: 89 Ill. Adm. Code 170
- 3) Section Number: Adopted Action:
170.300 New Section
- 4) Statutory Authority: Sections 4-8 and 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, pars. 4-8 and 12-13)(305 ILCS 5/4-8 and 12-13)
- 5) Effective Date of Amendments: June 8, 1995
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these Amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: June 8, 1995
- 9) Notice of Proposal Published in Illinois Register: January 20, 1995 (19 Ill. Reg. 530)
- 10) Has JCAR issued a Statement of Objections to these Adopted Amendments? No
- 11) Differences between proposal and final version: The following change has been made to the text of the proposed amendments:
In Sections 117.300(b), (c) and (e), "social service" has been added after "community".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these Amendments replace Emergency Amendments currently in effect?
Yes
- 14) Are there any Amendments pending in this Part? No
- 15) Summary and Purpose of Amendments: These amendments implement an administrative decision to support a pilot program for children in the South Chicago Chamber of Commerce.
The South Chicago Chamber of Commerce approached the Department in discussing ways of helping children stay in school and ultimately graduate. The Chamber's philosophy is that a healthy economic climate is built upon the development and successes of individuals in the community. To that end, the Chamber participates in a multi-member social service

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network, the Southeast Youth Network Panel, that takes a comprehensive view of the needs of the community and works to address those needs. This network is interested in working with families, on a pilot basis, to help remove barriers that are preventing children from regularly attending school. The approach has the potential to prevent or reduce truancy in later years. The Chamber has gained the support of four area schools for this pilot.

The Chamber's proposal provides intervention and supportive services to the family. If, however, a family does not cooperate with the services offered, thereby further jeopardizing the welfare of the child, the proposal then calls for the use of a protective payment tool to help facilitate the family's management of the situation. The rising truancy problem with the community's communications calls for aggressive yet realistic and productive measures.

In the majority of cases the pattern for future success or failure in school for a child is set very early. A child with high absenteeism in the third grade has a high likelihood of becoming a school dropout and turning to gang activity. Therefore, the goal of this pilot is to intervene at the earliest stage when these negative behaviors first appear and stop them before they become an ingrained part of the child's life.

The pilot would be for 15 children at a time in grades 1 - 6 in four neighborhood schools: Thorpe, Sheridan, Sullivan and Los Niños. Children who are beginning to demonstrate an absenteeism problem would be identified by designated school personnel. The following steps would then be taken:

If the situation warrants more intervention than the school can give, the school personnel would make a referral to the Southeast Youth Service Board.

The Board would refer the family to the

If the child is a member of a family

evaluate and implement appropriate

At the same time, public aid staff should contact the parent in writing

to advise of the importance of cooperating with the community agency

to improve the child's situation and of the possible consequences if

they do not cooperate, i.e., that the community agency would be

authorized to remove the family's AFDC check as a protective device to

further assist the family with planning and working toward the

goals that are needed for child from reaching that attendance.

If the family does not cooperate with the community agency the AFDC

case would be placed under protective payment with the community agency

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acting as the payee for the family's AFDC check. This would require that the family maintain contact with the community agency and facilitate receiving their cooperation in alleviating the situation causing the child's absence from school. Upon cooperation for at least 3 consecutive months, the parent would be resumed as the payee.

- 16) Information and questions regarding these Adopted Amendments shall be directed to:

Name: Judy Umunna
 Address: Bureau of Rules and Regulations
 Illinois Department of Public Aid
 100 South Grand Avenue East, Third Floor
 Springfield, Illinois 62762
 Telephone: (217) 524-3215

The full text of the Adopted Amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES
 CHAPTER I: DEPARTMENT OF PUBLIC AID
 SUBCHAPTER 9: DEMONSTRATION PROGRAMS

PART 170
 DEMONSTRATION PROGRAMS

SUBPART A: THE FRESH START
 WELFARE REFORM DEMONSTRATION PROGRAM

Section
 170.10
 170.20
 170.30
 170.40
 170.50

Youth Employment and Training Initiative
 Paternal Involvement Project
 Homeless Families Support Project
 Family Responsibility Project
 Income Budgeting Project

SUBPART B: THE CAREER ADVANCEMENT PROGRAM

Section
 170.100
 170.110
 170.120
 170.130

The Career Advancement Program
 Career Advancement Experimental and Control Groups
 Career Advancement Participation Requirements of Experimental Group Members
 Career Advancement Supportive Services for Experimental Group Members

SUBPART C: COMMUNITY GROUP PARTICIPATION PROGRAM

Section
 170.200

Community Group Participation Program

SUBPART D: EARNED INCOME INITIATIVE

Sections
 170.250

Work Pays Demonstration

SUBPART E: FAMILY DEVELOPMENT PLAN

170.300

Truancy Prevention Project

AUTHORITY: Implementing and authorized by Sections 4-8, 11-20, 12-13 and 12-4.28 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, par. 4-8, 11-20, 12-13 and 12-4.28) [305 ILCS 5/4-8, 11-20, 12-13 and 12-4.28].

SOURCE: Adopted at 13 Ill. Reg. 14067, effective August 23, 1989; amended at 14 Ill. Reg. 19320, effective November 30, 1990; amended at 17 Ill. Reg. 19197, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 19721, effective November 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg.

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3372, effective February 28, 1994; emergency amendment at 19 Ill. Reg. 645, effective January 9, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 7901, effective JUN 08 1995.

SUBPART E: FAMILY DEVELOPMENT PLAN

Section 170.300 Truancy Prevention Project

- a) The Department is implementing a pilot program designed to improve children's attendance in elementary school.
- b) Participating schools will identify children who are beginning to show attendance problems and who receive AFDC. The schools will contact the families as an initial means to resolve the matter. If the families have problems the schools cannot address, they will be referred to a social service network for appropriate community social service agency or agencies services. The appropriate local public aid office will also be notified of these referrals.
- c) When a family referred under subsection (b) of this Section cooperates with the referral, a social service network representative will develop a service plan with the family, involving service provision by appropriate community social service agencies.
- d) The Department will also inform the family in writing of the importance of participating with the referral and with the service plan for the well-being of the child and the consequence of not participating in the service plan.
- e) Upon failure of the family to cooperate with the referral or with the service plan, the family will be placed under a Protective Payee with the community social service agency acting as the payee for the family's AFDC grant. The provisions of 89 Ill. Adm. Code 117.10 shall otherwise apply.
- f) Upon cooperation for at least three consecutive months, the Protective Payee plan will be discontinued.

(Source: Added at 19 Ill. Reg. 7901, effective JUN 08 1995)

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- 1) Heading of the Part: Developmental Disabilities Service
- 2) Code Citation: 89 Ill. Adm. Code 144
- 3) Section Number: Adopted Action:
144.275 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, par. 12-13) [305 ILCS 5/12-13]
- 5) Effective Date of Amendments: June 5, 1995
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these Amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: June 5, 1995
- 9) Notice of Proposal Published in Illinois Register: February 17, 1995 (19 Ill. Reg. 1717)
- 10) Has JCAR issued a Statement of Objections to these Adopted Amendments? No
- 11) Differences between proposal and final version: The following changes have been made in the text of the proposed amendments.

In subsection (a)(2)(c), the word "at" has been deleted and the word "for" has been retained, to read, "...will be reimbursed for a minimum of 4.8 PPE nurses for non specialized care individuals plus additional PPE nurses,".

In the last sentence of subsection (a)(2)(c), the first word, "However", has been deleted, so the sentence now begins, "utilizing the maximum client ratio allowed".

In the cross reference in the agency note following subsection (c)(2)(D)(v), the word "subsection" has been changed to "subsections".

In the cross reference in the first sentence of subsection (c)(3), the word "subsection" has been changed to "subsections".

In subsection (d)(4), the federal cite has been changed to read, "(42 CFR 483.460(e), (f) and (g))".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

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13) Will these Amendments replace Emergency Amendments currently in effect?
No

14) Are there any Amendments pending on this Part? No

15) Summary and Purpose of Amendments: These amendments respond to an internal audit finding concerning reimbursement calculation for licensed nurse services in ICF/MR facilities. According to the audit, the rate method being used is not in compliance with the Department's reimbursement rule for ICF/MR facilities. These amendments correct any discrepancy between Section 144.275 and actual practice. Under these amendments, reimbursement for licensed nurse services in ICF/MR facilities, but excluding ICF/DD-16 facilities, is calculated at a minimum of 4.8 full time equivalent (FTE) nurses for clients who do not need specialized care, plus additional FTE nurses up to a maximum of a 1:6.25 nurse/client ratio.

These amendments have been reviewed and approved by the Department of Mental Health and Developmental Disabilities, which is responsible for ICF/MR oversight and reimbursement calculation.

The amendments bring Section 144.275 into agreement with the current rate calculation methodology, and will not result in any expenditure changes for the Department or rate changes for ICF/MR facilities.

16) Information and questions regarding these Adopted Amendments shall be directed to:

Name: Joanne Jones
Address: Bureau of Rules and Regulations
Illinois Department of Public Aid
100 South Grand Avenue East, Third Floor
Springfield, Illinois 62762
Telephone: (217) 524-3215

The full text of the Adopted Amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMS

PART 144

DEVELOPMENTAL DISABILITIES SERVICES

Section	
144.1	Incorporation By Reference
144.5	Determination of Program (Active Treatment) Costs
144.25	Active Treatment Service Requirements in Residential Facilities for Individuals with Developmental Disabilities (Repealed)
144.50	Inspection of Care (IOC) Review Criteria for the Evaluation of Active Treatment Services in Residential Facilities for Individuals with Developmental Disabilities (Repealed)
144.75	Comprehensive Functional Assessments and Reassessments (Repealed)
144.100	Interdisciplinary Team (IDT) (Repealed)
144.105	Individual Program Plan (IPP) (Repealed)
144.125	Specialized Care - Behavior Development Programs
144.150	Specialized Care - Health and Sensory Disabilities
144.175	Functional Needs
144.200	Service Needs - Medical Care (Repealed)
144.205	Service Needs - Medical and Therapy Services (Repealed)
144.225	Individual Rights (Repealed)
144.230	Reconciliation of Resident Funds
144.250	Discharge Planning/Maximum Growth Potential Plan (Repealed)
144.275	Reimbursement for Program (Active Treatment) Costs in Residential Facilities for Clients with Developmental Disabilities
144.300	Reimbursement for Program (Active Treatment) Costs in Small Scale Residential Facilities
144.325	Capital Rate Calculation
TABLE A	Overview of Staff Intensity Scale of Maladaptive Behaviors
TABLE B	Staff Intensity Scale
TABLE C	IPP Outcomes (Repealed)
TABLE D	Guidelines for Determining Levels of Functioning
TABLE E	Standardized Adaptive Functional Assessment

AUTHORITY: Implementing Article III of the Illinois Health Finance Reform Act (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 6503-1 et seq.) [20 ILCS 2215/Art. III] and implementing and authorized by Articles III, IV, V, VI, VII and Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, pars. 3-1 et seq., 4-1 et seq., 5-1 et seq., 6-1 et seq., 7-1 et seq. and 12-13) [305 ILCS 5/Arts. III, IV, V, VI, VII and 12-13].

SOURCE: Adopted at 14 Ill. Reg. 4166, effective March 9, 1990; Section 144.275 recodified from 89 Ill. Adm. Code 146.225 at 14 Ill. Reg. 7651; amended at 14 Ill. Reg. 17988, effective October 29, 1990; amended at 15 Ill. Reg. 14084, effective September 24, 1991; emergency amendment at 15 Ill. Reg. 16148,

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concurrently with deficits in adaptive behavior and manifested during the developmental period), will include both:

i) an assessment of intellectual functioning as measured by a standardized, full scale, individual intelligence test such as the Stanford Binet and WAIS-R. Such an assessment must be administered by a psychologist who is registered in Illinois under the Illinois Psychological Act (Illinois Department of Professional Regulation); and

ii) an assessment of adaptive behaviors using a nationally standardized, Department approved assessment instrument, such as the Scales of Independent Behavior (SIB) or the Inventory For Client and Agency Planning (ICAP). Such an assessment instrument will be utilized by at least one Qualified Mental Retardation Professional (QMRP) to evaluate each client's functional skills and adaptive behaviors.

B) The final determination of each client's overall level of functioning employs both the assessment of intellectual functioning and the assessment of adaptive behaviors, and will be made according to the criteria set forth in Section 144. Table D and Section 144. Table E.

C) The amount for Direct Services for these staffing ratios shall be obtained by:

i) determining the number of clients within each overall level of functioning; dividing each number by the client component of the staff; client ratio; summing these quotients; multiplying the sum by the aide hourly wage factor, and then by 2080 (52 weeks times 40 hours per week), to obtain a total annual Direct Service cost; and dividing this total by 365 days and then by the number of clients to obtain the amount for Direct Services per client per day. For example, if a facility serves 40 clients in the mild level of functioning, 30 clients in the moderate level of functioning, and 30 clients in the severe/profound level of functioning, the number of FTE Direct Services staff will be $(40 \div 2) + (30 \div 2.5) + (30 \div 2.5) = 35$. If the aide hourly wage is \$5.00, the total annual cost will be $35 \times \$5 \times 2080 = \$364,000$. The amount for FTE Direct Services per client per day will then be $\$364,000 \div 365 \div 365 = \9.97 .

ii) In ICF/DD-16 facilities, the foregoing calculation is modified such that in step two of subsection (a)(1)(C)(i) above, the facility may receive an amount for up to an additional .5 FTE. Direct Service is

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effective October 22, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3497, effective February 28, 1992; amended at 16 Ill. Reg. 5898, effective March 20, 1992; amended at 17 Ill. Reg. 8478, effective June 1, 1993; amended at 17 Ill. Reg. 11480, effective July 16, 1993; emergency amendment at 17 Ill. Reg. 15126, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended effective October 12, 1993; emergency amendment repealed at 17 Ill. Reg. 22582, effective December 20, 1993; emergency amendment at 18 Ill. Reg. 11314, effective July 1, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16619, effective October 27, 1994; amended at 19 Ill. Reg. 2890, effective February 22, 1995; amended at 19 Ill. Reg. **7906**, effective

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Section 144.275 Reimbursement for Program (Active Treatment) Costs in Residential Facilities for Clients with Developmental Disabilities

Residential facilities, including distinct parts of facilities, for clients with developmental disabilities (ICF/MR certification with licensure for ICF/DD, ICF/DD-16, SLC, and ICF/MR-SNF/PED license), excluding state operated facilities for individuals with developmental disabilities, will be reimbursed for an active treatment program for each client. Facility program reimbursement levels will be derived by the Department of Mental Health and Developmental Disabilities from the following four determinants which in combination will result in a total facility program per diem amount. These four determinants will be determined according to information provided in the most recent Inspection of Care (IOC) conducted by Department of Public Health survey staff. This IOC information must be validated by the survey staff prior to utilization for payment purposes. The new reimbursement level will be effective on the first day of the quarter following a facility's IOC. Where dollar, wage, or salary amounts are used, these shall be inflated to the fiscal year for which reimbursement will be made.

- a) Minimum Staffing
- 1) Direct Services - Facilities must be in compliance with the Health Care Financing Administration's (HCFA) (42 CFR 483.430) minimum average daily staffing standards relative to client population according to each individual's overall level of functioning:

Overall Level of Functioning	FTE* Staff : Client Ratio
Mild	1:5
Moderate	1:2.5
Severe or Profound	1:2
*FTE = Full Time Equivalent	

A) Determination of levels of functioning of clients with mental retardation and related conditions, in accordance with the definition of the American Association of Mental Retardation (Mental Retardation refers to significantly subaverage general intellectual functioning existing

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determined by multiplying .5 FTE by the proportion found by the ratio of the number of Medicaid eligible clients in the severe/profound level of functioning divided by the total number of eligible clients.

- 2) Licensed Nurses-Facilities must be in compliance with HCFA (42 CFR 483.460) and Illinois Department of Public Health (IDPH) (77 Ill. Adm. Code 350.1230) staffing standards relative to facility type.

- A) An ICF/MR (ICF/DD, SLC, SNF/PED but excluding ICF/DD-16) licensed for a population of 90 or fewer clients, none of whom require services under Levels II and III of Specialized Care-Health and Sensory Disabilities (Section 144.150(c) and (d)), will be reimbursed for a minimum of 4.8 FTE nurses. A facility with only such a population which has a licensed capacity greater than 90 clients will be reimbursed for additional FTE nurses according to the following Table:

Licensed Capacity	FTE Nurse : Client Ratio
-------------------	--------------------------

Client Type Greater than 90 clients with no Specialized Care - Health and Sensory Disabilities needs under Levels II and III	1:18.75
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- B) An ICF/MR (ICF/DD, SLC, SNF/PED but excluding ICF/DD-16) licensed for a population of 30 or fewer clients, all of whom require services under Level(s) II and/or III of Specialized Care - Health and Sensory Disabilities will be reimbursed for a minimum of 4.8 FTE nurses. A facility with only such a population which has a licensed capacity greater than 30 clients will be reimbursed for additional FTE nurses according to the following Table:

Licensed Capacity	FTE Nurse : Client Ratio
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Client Type Greater than 30 clients requiring Specialized Care - Health and Sensory Disabilities under Level(s) II and III	1:6.25
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AGENCY NOTE: The Omnibus Reconciliation Act of 1987 (P.L. 100-203) requirements prohibit the admission of individuals

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with a primary diagnosis of mental retardation into non-ICF/MR facilities. Therefore, SNF/PED facilities which meet ICF/MR certification requirements must be certified ICF/MR in order to comply with federal law when admitting individuals with mental retardation. Facilities which undergo certification conversion to ICF/MR will retain State licensure for skilled care (SNF/PED).

- C) An ICF/MR (ICF/DD, SLC, SNF/PED but excluding ICF/DD-16) which has a licensed capacity of 30 clients or more, some of whom require services under Level(s) II and/or III of Specialized Care - Health and Sensory Disabilities, and some of whom do not require such services, will be reimbursed for a minimum of 4.8 FTE nurses for non Specialized Care individuals plus additional FTE nurses, up to a maximum of a 1:6.25 ratio, according to the following Table:

Client Type	FTE Nurse : Client Ratio
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Clients requiring Specialized Care - Health and Sensory Disabilities under Level(s) II and/or III	1:6.25
---	--------

Client Type	FTE Nurse : Client Ratio
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Clients with no Specialized Care needs under Levels II and III	1:18.75
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For example, for a facility with a licensed capacity of 90 42 clients, 30 15 of whom require services under Level(s) II and/or III, and 60 27 of whom do not require such services, the number of FTE nurses will be $(30 \div 15) \div 6.25 = 4.8$ 2.40 + $(60 \div 27) \div 18.75 = 3.2$ 1.44, however, reimbursement will be calculated at the minimum of 4.8) = 0 7.2. Utilizing the maximum client ratio allowed, the facility will be reimbursed for 0 6.72 FTE nurses (42 divided by 6.25 = 6.72).

- D) Licensed nurses are not required in an ICF/DD-16 if none of the clients require a physician's medical care plan of treatment.

- i) An ICF/DD-16 which has 0 eight or fewer clients with medical care plans of treatment but who do not require services under Specialized Care - Health and Sensory Disabilities, Level(s) II and/or III, will be reimbursed for .5 FTE nurse. A facility with 9 nine or more such clients will be reimbursed for one (1) FTE nurse.

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- ii) An ICF/DD-16 with clients requiring medical care plans of treatment and additional medical services under Specialized Care - Health and Sensory Disabilities, Level(s) II and/or III, will be reimbursed according to the method in subsection (a)(2)(D)(i) above, plus additional reimbursement for licensed nurses using an FTE nurse: client ratio of 1:6.25 up to a maximum of the 1:6.25 ratio.

E) The licensed nurse component is computed similarly to the method in subsection (a)(1)(C) above. To determine the amount for Licensed Nurses, the number of FTE nurses required for each facility type and/or for clients receiving services under Specialized Care - Health and Sensory Disabilities, Level(s) II and/or III, shall be obtained according to subsections (a)(2)(A), (B), (C) and (D) above. This number is multiplied by the hourly nurse wage factor and then by 2080 (52 weeks x 40 hours). The product is divided by 365 and then by the number of clients.

- 3) The total reimbursement amount for Minimum Staffing is the sum of the amount for Direct Staff plus the amount for Licensed Nurses.

b) Active Treatment

1) Qualified Mental Retardation Professional (QMRP) - a person who has at least one year of experience working directly with persons with mental retardation or other developmental disabilities, and is one of the following:

- A) A doctor of medicine or osteopathy.
- B) A registered nurse.
- C) An individual who holds at least a bachelor's degree in one of the following professional categories: Occupational Therapist; Physical Therapist; Psychologist. Master's Degree; Social Worker; Recreation Specialist; Registered Dietitian; and Human Services, including but not limited to Sociology, Special Education, Rehabilitation Counseling, and Psychology. (42 CFR 483.430)

D) The amount for QMRPs assumes that a full-time QMRP is required for every 15 clients. The number of QMRPs shall be obtained by dividing the number of clients in the facility by 15. The obtained number of QMRPs is multiplied by the hourly wage factor and then by 2080. The product is divided by 365 and then by the number of clients to arrive at an amount per client per day.

2) Interdisciplinary Team (IDT)

A) The amount for services rendered by the IDT assumes that each client requires one day of IDT services per year. This amount is computed to be \$1.92 per client per day.

B) Interdisciplinary Team - A team which represents the professions, disciplines, or service areas that are relevant to identifying the client's needs and designing programs

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that meet the client's needs. Appropriate facility staff must participate in interdisciplinary team meetings. Participation by other agencies serving the client is required (89 Ill. Adm. Code 140.647). Participation by the client, his or her parent (if the client is a minor), or the client's legal guardian is required unless the participation is unobtainable or inappropriate. (42 CFR 483.440)

3) Additional Direct Service Staff (ADSS)

A) The amount for ADSS assumes an FTE staff:client ratio of 1:7.5. The total number of clients is divided by 7.5 and a per diem amount is obtained according to the method described in subsection (a)(1)(B) of this Section. In SIC facilities, the foregoing calculation is modified so that the overall level of functioning is distributed proportionately across each living unit (16-18 clients) in Step-1 step one of the calculation. If dividing the number of clients results in a fraction, it is rounded up to the next whole number in proportion to the number of clients in the severe/profound level of functioning. The total FTE is obtained by summing the calculation results from each living unit.

B) Additional Direct Services Staff - Staff which is in addition to HCRA's minimum average daily staffing standards (subsection (a)(1) of this Section), and for which the Department will provide reimbursement to ensure the delivery of active treatment. Examples of ADSS include, but are not limited to, staff who provide activity services, dietetic aides, and music therapists.

- 4) The total reimbursement amount for Active Treatment is the sum of the amounts for QMRP, IDT and ADSS.

c) Specialized Care

An additional amount shall be paid for clients meeting the requirements for services under Specialized Care. Detailed descriptions of services under Specialized Care are found in Section 144.125 Specialized Care - Behavior Development Programs, and Section 144.150, Specialized Care - Health and Sensory Disabilities. The service Level for each client meeting the criteria of more than one Level under Specialized Care shall be determined according to his/her disability or functional deficit which represents the most intense need for services under Specialized Care, and results in the greatest reimbursement.

1) Specialized Care - Behavior Development Programs Behavior development programs are related to maladaptive behaviors which occur with high frequency and/or great severity, and are instituted for the reduction of maladaptive behaviors and/or the increase of adaptive behaviors. The behavior development program shall demonstrate the need for and use of a more intensive staffing pattern (direct care staff) than the

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regular pattern which is reimbursed for under subsection (a)(1) of this Section. The service level for a client who meets the requirements for services under Specialized Care - Behavior Development Programs will be identified and validated during the most recent IOC.

A) Level I - .5 hours FTE Direct Service per day.
More intense program services are provided for behaviors which occur with high frequency but moderate severity, such as verbal abuse one or more times per 4 four hours which is hostile in tone and content.

B) Level II - 1.0 hours FTE Direct Service per day.
More intense program services are provided for behaviors which occur with high frequency and are aggressive or destructive, such as purposeful attacks of others which may result in minimal injuries, one or more times per day.

C) Level III - 2.0 hours FTE Direct Service per day.
More intense program services are provided for behaviors which occur with very high frequency such as hyperactivity one or more times per minute, or occur with high frequency and are seriously aggressive, assaultive or destructive and which may result in serious injury.

2) Specialized Care - Health and Sensory Disabilities
Specialized services for health and sensory disabilities refer to care which some clients must receive in order to attain physical health and development.

A) Definitions

i) Ambulatory-The client is capable of walking without assistance or the aid of adaptive equipment or devices.

ii) Mobile Nonambulatory-The client is capable of locomotion with mobility assistance such as adaptive equipment or devices.

iii) Nonmobile-The client is not capable of locomotion even with mobility assistance.

B) Level I - .5 hours FTE Direct Service per day. The client is ambulatory, mobile nonambulatory, or has the potential to become mobile nonambulatory, and requires services to compensate for a sensory deficit (auditory or visual), or services enabling him/her to be mobile (physical disabilities).

i) Sensory deficits-visual. The client's vision is 20/200 or less in the better eye with the greatest possible correction ~~†††††Rev-Stat-1989, ch-237, par-3332†~~ [20 ILCS 2420/2].

ii) Sensory deficits-auditory. The client has a hearing impairment of at least 55 decibels in the better ear, unaided.

iii) Physical disabilities means physical impairments which

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result in functional deficits requiring the client to receive training in the use of a device or devices, to achieve some level of independent mobility.

C) Level II - 1.0 hours FTE Direct Service per day. The client is nonmobile or mobile nonambulatory, requires mobility assistance, and requires services to meet high personal care needs. The client may also have significant daily medical needs and/or dual sensory deficits (visual and auditory).

i) Mobility assistance means assistance in transferring from a bed to an alternative position device, and assistance with movement/mobility around the facility.

ii) High personal care means one or more of the following: assistance with bathing, clothing, grooming and hygiene, eating and continence; position changes at two hour intervals, or as specified in the individual program plan; range of motion twice a day, or as specified in the individual program plan.

iii) Daily medical need means daily insulin injections, drug (insulin) monitoring, and/or ostomy care for a jejunostomy, ileostomy or colostomy.

iv) Dual sensory deficits means both an auditory disability and a visual disability.

AGENCY NOTE: A client who meets the criteria for Level II services is eligible for the FTE nurse:client ratio according to ~~subsection~~ subsections (a)(2)(B), (C) and (D) of this Section.

D) Level III - 2.0 hours FTE Direct Service per day. The client is typically nonmobile or mobile nonambulatory, but may be ambulatory, and requires services to meet high medical needs. High medical needs mean one or more of the following:

i) daily intermittent catheterization;

ii) care for wounds including stage III and IV decubitus ulcers, deep wounds, infected wounds, extensive burns, or extensive lesions requiring treatment in the form of medications, dressings, whirlpool, ultraviolet light and/or irrigations;

iii) respiratory care including tracheotomy care, positive pressure breathing treatments, aerosol therapy, postural drainage and percussion, vibration and/or suctioning;

iv) feeding via nasogastric tube, or prolonged oral feeding; and

v) intensive physical habilitation due to a functional deficit as determined by physical or psychological causes.

AGENCY NOTE: A client who meets the criteria for Level III services is eligible for the FTE

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nurse:client ratio according to subsection subsections (a)(2)(B), (C) and (D) of this Section.

- 3) The total reimbursement amount for Specialized Care shall be the sum of the amounts determined under subsection subsections (c)(1) and (2) of this Section, prorated over the number of eligible clients identified in the most recent facility reimbursement survey. For example, if the hourly wage is \$5.00, assume a facility with 10 ten residents, two of whom meet the criteria for Specialized Care - Health and Sensory Disabilities Level II, subsection (c)(2)(C) of this Section, with no daily medical needs or sensory deficits, and eight of whom do not meet Specialized Care criteria. The facility will receive an amount of \$1.81 per client per day (2 two hours X 1.14 (FTE adjustment factor) divided by 8 eight hours/day = .285 staff; then .285 X (2080 hours/year divided by 365 days/year); then divide by 10 ten clients and multiply by \$5.00 to obtain \$0.81).

d) Related Costs

- 1) An amount per client per day will be paid for other program costs, including program - related supplies, consultants and other items necessary for the delivery of active treatment to clients in accordance with their individual program plans.
- 2) For each facility type, this amount will be determined as follows. Add the amounts determined for subsections (a), (b) and (c) of this Section, but excluding the amount for the IDT (subsection (b)(2) of this Section), and then multiply this sum by the facility's Health Service Area (HSA) grouping (89 Ill. Adm. Code 140. Table B). The product plus the amount for the IDT (subsection (b)(2) of this Section), is then multiplied by a constant for the facility type, as follows:

Facility Type	Constant
ICF/DD	.10
SNF/PED or ICF/DD	.15
(An ICF/DD with some clients requiring services under Level(s) II and/or III of Specialized Care - Health and Sensory Disabilities).	
ICF/DD-16 & SLC	.20

- 3) An ICF/DD with some clients requiring services under Level(s) II and/or III of Specialized Care - Health and Sensory Disabilities, and some clients not requiring such services will have the total related cost calculated according to the weighted sum of the number of clients requiring Level(s) II and/or III multiplied by .15, plus the number of clients not requiring such services

multiplied by .10. For example, for a facility with a licensed capacity of 90 clients, 30 of whom require services under Level(s) II and/or III, and 60 of whom do not require such services, the total related cost will be calculated according to subsection (d)(2) above for both groups of clients. (That is, subsections (a), (b) and (c) of this Section are summed, excluding the amount for the IDT, for clients requiring Level(s) II and/or III and for clients not requiring Level(s) II and/or III. Each sum is multiplied by the facility's HSA grouping, and the products are added to the amount for the IDT.) Each outcome is multiplied by the appropriate constant (the SNF/PED-ICF/DD constant of .15 or the ICF/DD constant of .10), and then by the number of clients in each group respectively. The two products are summed and then divided by the total number of clients.

- 4) An amount will also be paid for dental services which are in compliance with HCFA's regulations (42 CFR 483.460(e)(f) and (g)), for each client age 21 or more. Beginning July 1, 1991, this amount will be determined by adding the flat per diem of \$.30 to the amount calculated according to subsection (d)(2) above. This per diem will cover the costs of prophylaxis treatment up to once every six months, and periodontal services as needed for each eligible client.
- e) Total Program Per Diem - Total program per diem for each facility will be the sum of the amounts from subsections (a), (b), (c) and (d) of this Section.

(Source: Amended at 19 Ill. Reg. 7906, effective JUN 05 1995)

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- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Numbers: Adopted Action:
140.11 Amendment
140.12 Amendment
140.400 Amendment
140.435 Amendment
140.523 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, par. 12-13) [305 ILCS 5/12-13]
- 5) Effective Date of Amendments: June 5, 1995
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these Amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: June 5, 1995
- 9) Notice of Proposal Published in Illinois Register:
Section 140.11 through 140.523 and Section 140.400 and 140.435
January 13, 1995 (19 Ill. Reg. 165) February 10, 1995 (19 Ill. Reg. 1200)
- 10) Has JCAR issued a Statement of Objections to these Adopted Amendments? No
- 11) Differences between proposal and final version: The following changes have been made in the proposed amendments.
Section 140.11
In subsection (c), the following language has been added after the first sentence:

The Department shall notify the purchaser, within ten working days of receipt of the purchaser's notification, of its obligation under Section 140.12(k) to assume liability for repayment to the Department for overpayments made to the previous owner or operator. Such notification shall inform the purchaser of all outstanding known liabilities due the Department by the facility and of any known pending Department actions against the facility that may result in further liability.

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Section 140.12

The word "and" has been stricken at the end of subsection (i).

In subsection (j), the period at the end of the subsection has been stricken, and a semi-colon followed by the word "and" has been added.

In subsection (k), the following language has been added after the first sentence: "Liability of current and previous providers to the Department shall be joint and several."

Subsections (k)(1), (2), (3) and (4) have been revised, and new subsections (k)(4)(A), (B) and (C) have been added, as follows:

- 1) Amounts established by final administrative decisions pursuant to 89 Ill. Adm. Code 104;
- 2) Overpayments resulting from advance C-13 payments made pursuant to Section 140.71;
- 3) Liabilities resulting from nonpayment or delinquent payment of assessments pursuant to Section 140.84; and
- 4) Amounts identified during past, pending or future audits that pertain to audit periods prior to a change in ownership and are conducted pursuant to Sections 140.30 and 140.590. Liability of current owners or operators for amounts identified during such audits shall be as follows:

- A) For past audits (audits completed before changes in ownership), liability shall be the amount established by final administrative decision.
- B) For pending audits (audits initiated, but not completed prior to the change in ownership), liability shall be limited to the lesser of the amounts established by final administrative decision or two months of service revenue. Two months of service revenue is defined as two months of Medicaid patient days as reported on the latest cost report filed by the selling owner or operator multiplied by the total Medicaid rate in effect on the date the new owner or operator is enrolled in the Program as a provider by the Department. The Medicaid rate in effect on the date of enrollment shall be used even if that rate is subsequently changed.
- C) For future audits (audits initiated after the change in ownership but pertaining to an audit period prior to a

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change in ownership), liability shall be limited as described in subsection (k)(4)(B) above.

Section 140.400

In the first sentence of subsection (a)(2), the Ill. Rev. Stat. citation concerning the Illinois Nursing Act of 1987 has been replaced with the statutory citation reading "[225 ILCS 65]".

Section 140.435

In subsections (a)(1), (a)(2), (c) and (d), the statutory citation reading "[225 ILCS 65]" has been inserted following each reference to the "Illinois Nursing Act of 1987".

In subsection (a)(2) and (d), the statutory citation reading "[225 ILCS 60]" has been inserted following each reference to the "Medical Practice Act of 1987".

In subsection (a)(3), the sixth sentence has been revised to read: "The issuance of a prescription or a medical diagnosis does not constitute an authorized procedure for reimbursement."

Section 140.523

Subsection (b)(1)(A) has been revised to read: "be authorized by the interdisciplinary team (IDT); and".

No other changes have been made in the text of the proposed amendments.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these Amendments replace Emergency Amendments currently in effect?
No

14) Are there any Amendments pending on this Part? Yes

Sections	Proposed Action	Illinois Register Citation
140.27	Amendment	May 5, 1995 (19 Ill. Reg. 6268)
140.80	Amendment	March 17, 1995 (19 Ill. Reg. 3248)
140.80	Amendment	March 24, 1995 (19 Ill. Reg. 4337)
140.82	Amendment	March 17, 1995 (19 Ill. Reg. 3248)
140.82	Amendment	March 24, 1995 (19 Ill. Reg. 4337)
140.84	Amendment	March 17, 1995 (19 Ill. Reg. 3248)

Sections	Proposed Action	Illinois Register Citation
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140.84	Amendment	March 24, 1995 (19 Ill. Reg. 4337)
140.642	Amendment	April 14, 1995 (19 Ill. Reg. 5397)

15) Summary and Purpose of Amendments:Sections 140.11 and 140.12

These amendments address situations in which the Department is unable to collect overpayments made to long term care facilities, after changes have occurred regarding facility ownership. According to these amendments, a provider shall assume liability for repayment to the Department of any overpayment made to a facility, regardless of whether the overpayment was incurred by the current owner or operator, or by a previous owner or operator.

Overpayments are identified as amounts established by final administrative decision; amounts identified during past, pending or future audits that pertain to audit periods prior to a change in ownership; amounts resulting from advance C-13 payments; and liabilities resulting from nonpayment or delinquent payment of provider assessments. The amendments also require providers to notify the Department in writing of anticipated changes in facility ownership at least 30 days prior to the changes.

The current outstanding balance regarding monies due to the Department from facilities that have undergone ownership changes, is approximately \$2 million.

Sections 140.400 and 140.435

This rulemaking is based upon changes in federal regulations imposed by OBRA'90 and is intended to describe Department coverage for services provided by certified pediatric nurse practitioners and certified family nurse practitioners. The amendments specify criteria regarding education and training, licensing and certification, and other requirements which nurse practitioners will be required to meet in order to be eligible for reimbursement under the Medical Assistance Program.

According to these amendments, payment for nurse practitioner services will be made only to a registered professional nurse (R.N.) who has a valid Illinois license and is legally authorized under State law to practice as a nurse practitioner so long as such practice is not in conflict with the Illinois Nursing Act of 1987, Medical Practice Act of 1987 and the implementing regulations. The nurse practitioner shall also have completed a program of study and clinical experience for certified pediatric nurse practitioner or certified family nurse practitioner which is accredited and approved by the appropriate Accreditation Board as described in Section 140.435(a)(2).

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Further requirements pertaining to coverage under these amendments specify that a nurse practitioner must have and maintain a current agreement with a physician licensed to practice medicine in all its branches who has hospital admitting privileges including delivery privileges where applicable. Such an agreement must specify which procedures or categories of procedures may be performed by the nurse practitioner, and which procedures may be performed in the physician's absence. A nurse practitioner may bill the Department directly only for services which have been personally provided by the individual nurse practitioner. Nurse practitioners will have the option of billing the Department directly for covered services at 70 percent of the established screen, or continuing to bill through their employers.

Section 140.523

This rulemaking provides for certain procedural changes concerning bed reserves in ICF/MR facilities. According to current requirements, on-site audits conducted by Department surveyors from the Bureau of Disability Services and post-payment approval is necessary for paid bed reserves. However, because of HB 3713, programmatic responsibility for ICF/MR services has been transferred to the Department of Mental Health and Developmental Disabilities, and ICF/MR facility survey duties are performed by the Department of Public Health. Additionally, post payment approval audits in recent years have revealed an error rate of only two percent in ICF/MR paid bed reserves. Therefore, changes are being made to eliminate the requirement for post payment approval for bed reserves in ICFs/MR. A payable bed reserve must be authorized by the interdisciplinary team. Such bed reserves will continue to be subject to audit under the Bureau of Medical Quality Assurance.

16) Information and questions regarding these Adopted Amendments shall be directed to:

Name: Joanne Jones
Address: Bureau of Rules and Regulations
Illinois Department of Public Aid
100 South Grand Avenue East, Third Floor
Springfield, Illinois 62762
Telephone: (217) 524-3215

The full text of the Adopted Amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMS

PART 140
MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

- 140.1 Incorporation By Reference
140.2 Medical Assistance Programs
140.3 Covered Services Under The Medical Assistance Programs for AFDC, AFDC-MANG, AABD, AABD-MANG, RRP, Individuals Under Age 18 Not Eligible for AFDC, Pregnant Women Who Would Be Eligible if the Child Were Born and Pregnant Women and Children Under Age Eight Who Do Not Qualify as Mandatory Categorically Needy and Disabled Persons Under Age 21 Who May Qualify for Medicaid and In-Home Care (Model Waiver) Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
140.4 Covered Medical Services Under GA
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140.6 Medical Assistance Provided to Individuals Under the Age of Eighteen
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140.9 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy Medical Assistance Provided to Incarcerated Persons
140.10

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

- 140.11 Enrollment Conditions for Medical Providers
140.12 Participation Requirements for Medical Providers
140.13 Definitions
140.14 Denial of Application to Participate in the Medical Assistance Program
140.15 Recovery of Money
140.16 Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
140.18 Effect of Termination on Individuals Associated with Vendor
140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring
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	Drug Manual Updates (Recodified)

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AUTHORITY: Implementing Article III of the Illinois Health Finance Reform Act (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 6503-1 et seq.) [20 ILCS 2215/Art. III] and implementing and authorized by Articles III, IV, V, VI, VII and Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, pars. 3-1 et seq., 4-1 et seq., 5-1 et seq., 6-1 et seq., 7-1 et seq., and 12-13) [305 ILCS 5/Arts. III, IV, V, VI, VII, and 12-13].

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; recodified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24,

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August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 18057, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; Section 140.569 withdrawn at 15 Ill. Reg. 1174; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 111, Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16355, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 1561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days;

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emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; emergency amendment suspended effective October 12, 1993; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995.

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section 140.11 Enrollment Conditions for Medical Providers

a) In order to enroll for participation, providers shall:

- 1) Hold a valid, appropriate license where State law requires licensure of medical practitioners, agencies, institutions and other medical vendors;
 - 2) Be certified for participation in the Title XVIII Medicare program where Federal or State rules and regulations require such certification for Title XIX participation;
 - 3) Be certified for Title XIX when Federal or State rules and regulations so require;
 - 4) Provide enrollment information to the Department in the prescribed format, and notify the Department, in writing, immediately whenever there is a change in any such information which the provider has previously submitted;
 - 5) Provide disclosure, as requested by the Department, of all financial, beneficial, ownership, equity, surety, or other interests in any and all firms, corporations, partnerships, associations, business, enterprises, joint ventures, agencies, institutions or other legal entities providing any form of health care services to public aid recipients; and
 - 6) Have a written provider agreement on file with the Department.
- b) Approval of a corporate entity such as a hospital, pharmacy, laboratory, etc., as a participant in the Medical Assistance Program applies only to the entity's existing ownership, corporate structure and location; therefore, participation approval is not transferable. For long term care providers, when there is a change of ownership of a facility or a facility is leased to a new operator, written notification shall be made to the Department at least 30 days in advance of the change. The Department shall notify the purchaser, within ten working days of receipt of the purchaser's notification, of its obligation under Section 140.12(k) to assume liability for

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repayment to the Department for overpayments made to the previous owner or operator. Such notification shall inform the purchaser of all outstanding known liabilities due the Department by the facility and of any known pending Department actions against the facility that may result in further liability. The provider agreement shall be automatically assigned to the new owner or lessee. Such assigned agreement shall be subject to all conditions under which it was originally issued, including, but not limited to, any existing plans of correction, all requirements of participation as set forth in Section 140.12 or additional requirements imposed by the Department.

(Source: Amended at 19 Ill. Reg. 7919, effective JUN 05 1995)

Section 140.12 Participation Requirements for Medical Providers

The provider shall agree to:

- a) Verify eligibility of recipients prior to providing each service;
- b) Allow recipients the choice of accepting or rejecting medical or surgical care or treatment;
- c) Provide supplies and services in full compliance with all applicable provisions of State and federal laws and regulations pertaining to nondiscrimination and equal employment opportunity including but not limited to:

- 1) Full compliance with Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color or national origin;
- 2) Full compliance with Section 504 of the Rehabilitation Act of 1973 and 45 CFR 84, which prohibit discrimination on the basis of handicap; and
- 3) Without discrimination on the basis of religious belief, political affiliation, sex, age or disability;
- d) Comply with the requirements of applicable Federal and State laws and not engage in practices prohibited by such laws;
- e) Hold confidential, and use for authorized program purposes only, all Medical Assistance information regarding recipients;
- f) Furnish to the Department, in the form and manner requested by it, any information it requests regarding payments for providing goods or services, or in connection with the rendering of goods or services or supplies to recipients by the provider, his agent, employer or employee;
- g) Make charges for the provision of services and supplies to recipients in amounts not to exceed the provider's usual and customary charges and in the same quality and mode of delivery as are provided to the general public;
- h) Accept as payment in full the amounts established by the Department.

- 1) If a provider accepts an individual eligible for medical assistance from the Department as a Medicaid recipient, such

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provider shall not bill, demand or otherwise seek reimbursement from that individual or from a financially responsible relative or representative of the individual for any service for which reimbursement would have been available from the Department if the provider had timely and properly billed the Department. For purposes of this subsection, "accepts" shall be deemed to include:

- A) An affirmative representation to an individual that payment for services will be sought from the Department;
- B) An individual presents the provider with his or her Medicaid card and the provider does not indicate that other payment arrangements will be necessary; or
- C) billing the Department for the covered medical service provided an eligible individual.

- 2) If an eligible individual is entitled to medical assistance with respect to a service for which a third party is liable for payment, the provider furnishing the service may not seek to collect from the individual payment for that service if the total liability of the third party for that service is at least equal to the amount payable for that service by the Department;

- i) Accept assignment of Medicare benefits for public aid recipients eligible for Medicare, when payment for services to such persons is sought from the Department; and

- j) Complete a Healthy Moms/Healthy Kids Provider Agreement in order to participate in the Healthy Moms/Healthy Kids Program (see Section 140.924(a)(1)(D)); and

- k) In the case of long term care providers, assume liability for repayment to the Department of any overpayment made to a facility regardless of whether the overpayment was incurred by a current owner or operator or by a previous owner or operator. Liability of current and previous providers to the Department shall be joint and several. Recoveries by the Department under this Section may be made pursuant to Sections 140.15 and 140.25. For purposes of this Section, "overpayment" shall include, but not be limited to:

- 1) Amounts established by final administrative decisions pursuant to 89 Ill. Adm. Code 104;

- 2) Overpayments resulting from advance C-13 payments made pursuant to Section 140.71;

- 3) Liabilities resulting from nonpayment of delinquent payment of assessments pursuant to Section 140.84; and

- 4) Amounts identified during past, pending or future audits that pertain to audit periods prior to a change in ownership and are conducted pursuant to Section 140.30 and 140.590. Liability of current owners or operators for amounts identified during such audits shall be as follows:

- A) For past audits (audits completed before changes in ownership), liability shall be the amount established by final administrative decision.

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B) For pending audits (audits initiated, but not completed, prior to the change in ownership), liability shall be limited to the lesser of the amounts established by final administrative decision or two months of service revenue. Two months of service revenue is defined as two months of Medicaid patient days as reported on the latest cost report filed by the selling owner or operator multiplied by the total Medicaid rate in effect on the date the new owner or operator is enrolled in the program as a provider by the Department. The Medicaid rate in effect on the date of enrollment shall be used even if that rate is subsequently changed.

C) For future audits (audits initiated after the change in ownership but pertaining to an audit period prior to a change in ownership), liability shall be limited as described in subsection (k)(4)(B) above.

(Source: Amended at 19 Ill. Reg. 7919, effective JUN 05 1995)

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section 140.400 Payment to Practitioners, Nurses and Laboratories

a) This Section applies to physicians, dentists, nurses, optometrists, podiatrists, chiropractors and independent laboratories.

1) Practitioners, nurses and independent laboratories are required to bill the Medical Assistance Program at the same rate they charge patients paying their own bills and patients covered by other third party payors.

2) A practitioner or nurse may bill only for services he personally provides or which are provided under his direct supervision in his office by his staff, so long as such practice is not in conflict with the Illinois Nursing Act of 1987 [225 ILCS 65] implementing regulations. A certified pediatric nurse practitioner or certified family nurse practitioner may bill only for the services personally provided by the individual nurse practitioner. A practitioner may not bill for services provided by another practitioner even though he may be in the employ of the other.

3) Payment will be made only in the practitioner's or nurse's name or a Department approved alternate payee.

4) Payments will be made according to a schedule of statewide pricing screens established by the Department of Public Aid. (Exception: A certified pediatric nurse practitioner, certified family nurse practitioner and ~~except for covered services of a~~ nurse midwife ~~which~~ will be reimbursed for covered services at

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70% of the established screen, and covered services provided by qualifying providers under the Healthy Moms/Healthy Kids Program, which will be reimbursed at enhanced rates (see subsection (b) below.) The pricing screens are to be established based on consideration of the market value of the service. In considering the market value, the Department will examine the costs of operations and material. Input from advisory groups designated by statute, generally recognized provider interest groups and the general public will be taken into consideration in determining the allocation of available funds to rate adjustments. Increases in rates are contingent upon funds appropriated by the General Assembly. Reductions or increases may be affected by changes in the market place or changes in funding available for the Medical Assistance Program. Screens will be related to the average statewide charge. The upper limit for services shall not exceed the lowest Medicare charge levels.

b) Providers who meet the qualifications for and enter into a Primary Care Provider Agreement for participation in the Healthy Moms/Healthy Kids Program, as described in Subpart G, will receive enhanced reimbursement in accordance with Section 140.930(a)(1).

c) The Department will distribute (initially and upon revision of the amounts) to practitioners, nurses and laboratories the maximum allowable amounts for the most commonly billed procedure codes. Interested individuals may request a copy of the maximum allowable amounts from the Department by directing the request to the Bureau of Comprehensive Health Services, Prescott E. Bloom Building, 201 South Grand Avenue East, Springfield, Illinois 62763-0001. In addition, a participating individual practitioner may request the maximum allowable amounts for less commonly billed specific procedures that relate to the individual's practice. This request must be in writing and identify specific procedure codes ~~code#~~ and associated descriptions.

(Source: Amended at 19 Ill. Reg. 7919, effective

JUN 05 1995)

Section 140.435 Nurse Services

a) Payment for nurse services shall be made only to licensed nurses. 1) Payment for nurse midwife services shall be made only to a registered professional nurse (R.N.) who holds a valid Illinois license and is legally authorized under State law or regulation to practice as a nurse-midwife so long as such practice is not in conflict with the Illinois Nursing Act of 1987 [225 ILCS 65] and its implementing regulations and has completed a program of study and clinical experience for nurse-midwives accredited/approved by the American College of Nurse-Midwives. A nurse-midwife must have and maintain a current agreement with a physician licensed

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to practice medicine in all its branches who has hospital delivery privileges. A copy of this signed agreement must be on file with the Department.

- 2) Payment for certified pediatric nurse practitioners and certified family nurse practitioners shall be made only to a registered professional nurse (R.N.) who holds a valid Illinois license and is legally authorized under State law or rule to practice as a nurse practitioner so long as such practice is not in conflict with the Illinois Nursing Act of 1987 [225 ILCS 65], Medical Practice Act of 1987 [225 ILCS 60] and the implementing regulations. The nurse practitioner shall also have completed a program of study and clinical experience for certified pediatric nurse practitioner or certified family nurse practitioner which is accredited and approved by the appropriate Accreditation Board. Certified pediatric nurse practitioners must be certified by the American Nurses Association or by the National Board of Pediatric Nurse Practitioners and Associates. A certified family nurse practitioner must be certified by the American Nurses Association. A certified pediatric or family nurse practitioner must have and maintain a current agreement with the physician licensed to practice medicine in all its branches who has hospital admitting privileges including delivery privileges where applicable.

- 3) The agreement required under Section 140.435(a)(1) and (2) shall be in the following form. This agreement must explain the oversight of the nurse by a physician authorized to practice medicine in all its branches and authorize the specific procedures or categories of procedures which may be performed. The services to be provided must be services which the physician generally provides his or her patients in the normal course of their medical practice. The agreement must specify which authorized procedures do not require a physician's presence as the procedures are being performed. The nurses shall identify themselves as a nurse practitioner to the patient. The issuance of a prescription or a medical diagnosis does not constitute an authorized procedure for reimbursement. The agreement must specify the parameters and detail all authorized procedures that may be carried out. A copy of this signed agreement must be on file with the Department and must be updated annually.

- b) Payment shall be made for nurse services specified below.

- 1) In-Home Nursing Services
2) Private duty nursing services

- c) Payment shall be made for nurse midwife services for the management and care of women through the maternity cycle including the six weeks postpartum checkup and the management and care of newborn babies up to six weeks following delivery, so long as such practice is not in conflict with the Illinois Nursing Act of 1987 [225 ILCS 65] and its implementing regulations.

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- d) Payment shall be made for certified pediatric and family nurse practitioner services in compliance with the physician agreement required under this Section so long as such services do not conflict with the Illinois Nursing Act of 1987 [225 ILCS 65] or the Medical Practice Act of 1987 [225 ILCS 60] and their implementing regulations.

(Source: Amended at 19 Ill. Reg. 7919, effective JUN 05 1995)

SUBPART E: GROUP CARE

Section 140.523 Bed Reserves

- a) Nursing Facilities

- 1) All bed reserves must:
- A) be authorized by a physician (and in the case of hospitalization, the physician must anticipate that the hospitalization will not exceed ten days);
 - B) have post payment approval from the Bureau of Long Term Quality Care nurse based on satisfying the requirements of this Section;
 - C) be limited to residents who desire to return to the same facility; and
 - D) be limited to facilities having a 93 percent or higher occupancy level. The occupancy level shall be calculated including both payable and non-payable (non-payable defined as those residents that have transitioned from the maximum days allowed for payable bed reserve to non-payable bed reserve status) bedhold days as occupied beds.
- 2) Payment may be approved for hospitalization for a period not to exceed ten days per hospital stay. The day the resident is transferred to the hospital is the first day of the reserve bed period.
- 3) Payment may be approved for home visits which have been indicated by a physician as therapeutically beneficial. In such instances, bed reserve is limited to seven consecutive days in a billing month or ten days a non-consecutive days in a billing month. The day after the resident leaves the facility is the first day of the reserve bed period. Home visits may be extended with the approval of the Department.
- 4) The Bureau of Long Term Quality Care nurse will approve ongoing therapeutic home visits based on the physician's standing orders for the individual. Standing orders for therapeutic home visits limited to ten days per month are valid for a period not exceeding six months.
- 5) Payment for approved bed reserves is a daily rate at 75% of an individual's current Medicaid per diem.
- 6) In no facility may the number of vacant beds be less than the

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number of beds identified for residents having an approved bed reserve. The number of vacant beds in the facility must be equal to or greater than the number of residents allowed bed reserve.

b) ICF/MR Facilities (including ICF/DD and SNF/PED facilities)

1) All bed reserves must:

- A) be authorized by the interdisciplinary team (IDT) referenced in ~~09-1117-Adm-Code-144-1001a) through (e); and~~
- B) ~~have post-payment approval from the Bureau of Disability Services.~~

~~B)(e)~~ be limited to residents who desire to return to the same facility.

2) There is no minimum occupancy level ICF/MR facilities must meet for receiving bed reserve payments.

3) In no facility may the number of vacant beds be less than the number of beds identified for residents having an approved bed reserve. The number of vacant beds in the facility must be equal to or greater than the number of residents allowed bed reserve.

4) Payment may be approved for hospitalization for a period not to exceed 45 consecutive days. The day the resident is transferred to the hospital is the first day of the reserve bed period. Payment for approved bed reserves for hospitalization is a daily rate at:

- A) 100% of a facility's current Medicaid per diem for the first ten days of an admission to a hospital;
- B) 75% of a facility's current Medicaid per diem for days 11 through 30 of the admission;
- C) 50% of a facility's current Medicaid per diem for days 31 to 45 of the admission.

5) Payment may be approved for therapeutic visits which have been indicated by the IDT as therapeutically beneficial. There is no limitation on the bed reserve days for such approved therapeutic visits. The day after the resident leaves the facility is the first day of the bed reserve period. Payment for approved bed reserves for therapeutic visits is a daily rate at:

- A) 100% of a facility's current Medicaid per diem for a period not to exceed ten days per State fiscal year;
- B) 75% of a facility's current Medicaid per diem for a period which exceeds ten days per State fiscal year.

(Source: Amended at 19 Ill. Reg. 7919, effective JUN 05 1995)

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1) Heading of the Part: Reimbursement for Nursing Costs for Geriatric Facilities2) Code Citation: 89 Ill. Adm. Code 1473) Section Number: Adopted Action:
147.200 Amendment4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, par. 12-13) [305 ILCS 5/12-13]5) Effective Date of Amendments: June 5, 19956) Does this rulemaking contain an automatic repeal date? No7) Do these Amendments contain incorporations by reference? No8) Date Filed in Agency's Principal Office: June 5, 19959) Notice of Proposal Published in Illinois Register: February 17, 1995 (19 Ill. Reg. 1730)10) Has JCAR issued a Statement of Objections to these Adopted Amendments? No11) Differences between proposal and final version: The following changes have been made in the proposed amendments.

The Authority Note for Part 147 has been updated.

Section (b)(1)(D) has been revised to read, "Registered Nurse (RN) or Licensed Practical Nurse (LPN)."

Subsection (b)(2)(B) has been revised to read, "Registered Nurse (RN) or Licensed Practical Nurse (LPN); or".

In subsection (d)(1), the brackets enclosing the ILCS citation have been deleted, with the parentheses retained, to read "(see 225 ILCS 75)".

In subsection (d)(2), the brackets enclosing the ILCS citation have been deleted, with the parentheses retained, to read "(see 225 ILCS 90)".

In subsection (e)(2)(C)(vi) of the Register pages, underlining has been added for the first occurrence of the word "arthritis".

No other changes have been made in the proposed amendments.

12) Have all the changes agreed upon by the agency and JCAR been made as

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indicated in the agreement letter issued by JC&R? Yes

13) Will these Amendments replace Emergency Amendments currently in effect?
No

14) Are there any Amendments pending on this Part? No

15) Summary and Purpose of Amendments: Several changes are being adopted in the Department's rule regarding basic rehabilitation aide training programs for physical rehabilitation aides and occupational rehabilitation aides. The first change is being made to ensure that only competent and qualified individuals may enter the rehabilitation aide training program and provide nursing related services in long term care facilities. The course prerequisites are being changed so that only certified nurse aides, developmental disabilities aides, basic child care/habilitation aides and licensed nurses (RNs and LPNs) are eligible to take the rehabilitation aide training programs.

Another revision provides the Department with the authority to withhold certificate validation from a rehabilitation aide trainee if that individual has been found guilty of abuse, neglect or theft based upon information from the nurse aide registry of the Department of Public Health (DPH).

A change is also being made to remove reference to approval by DPH of rehabilitation or restorative nursing courses, because DPH no longer provides approval for such courses. Additionally, several technical changes are being made to provide for consistency in the rule.

16) Information and questions regarding these Adopted Amendments shall be directed to:

Name: Joanne Jones
Address: Bureau of Rules and Regulations
Illinois Department of Public Aid
100 South Grand Avenue East, Third Floor
Springfield, Illinois 62762
Telephone: (217) 524-3215

The full text of the Adopted Amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMS

PART 147

REIMBURSEMENT FOR NURSING COSTS FOR
GERIATRIC FACILITIES

Section 147.5	Reimbursement For Nursing Costs For Geriatric Residents in Group Care Facilities
147.15	Comprehensive Resident Assessment
147.25	Functional Needs and Restorative Care
147.50	Service Needs
147.75	Definitions
147.100	Reconsiderations
147.105	Midnight Census Report
147.125	Times and Staff Levels
147.150	Statewide Rates
147.175	Referrals
147.200	Basic Rehabilitation Aide Training Program
147.205	Nursing Rates
147.250	Costs Associated with the Omnibus Budget Reconciliation Act of 1987
147.300	Determination of Program (Psychiatric Rehabilitation Services) Costs
147.305	Psychiatric Rehabilitation Service Requirements for Individuals With Mental Illness in Residential Facilities
147.310	Inspection of Care (IOC) Review Criteria for the Evaluation of Psychiatric Rehabilitation Services in Residential Facilities for Individuals with Mental Illness
147.315	Comprehensive Functional Assessments and Reassessments
147.320	Interdisciplinary Team (IDT)
147.325	Comprehensive Program Plan (CPP)
147.330	Specialized Care - Administration of Psychopharmacologic Drugs
147.335	Specialized Care - Behavioral Emergencies
147.340	Discharge Planning
147.345	Reimbursement for Program Costs in Nursing Facilities Providing Psychiatric Rehabilitation Services for Individuals with Mental Illness
147.350	Reimbursement for Additional Program Costs Associated with Providing Specialized Services for Individuals with Developmental Disabilities in Nursing Facilities
TABLE A	Staff Time and Allocation by Need Level
TABLE B	Staff Time and Allocation for Restorative Programs
TABLE C	Comprehensive Resident Assessment
TABLE D	Functional Needs and Restorative Care
TABLE E	Service
TABLE F	Social Services
TABLE G	Therapy Services

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- the program sponsor.
- 3) If a program is not approved, the program sponsor may, after making the appropriate modifications, reapply for approval.
 - 4) Orientation to the specific policies of the employing agency shall be in addition to the ~~twenty-four~~ 24 hours of instruction.
 - 5) Any change in content, objectives, or instructional staff must be submitted for review.
 - 6) All approved training programs must be resubmitted prior to 30 days of the annual anniversary date of the program's approval for continued approval. In the resubmission process, the program sponsor must submit the information specified in subsection (c)(1) above. Approval will be based upon compliance of the submitted materials with the requirements of this Section ~~section~~. In the resubmissions process, the program sponsor shall refer to the number assigned by the Department.
 - 7) Each instructor is to provide ~~ten~~ 10 questions with answers that cover the course content. The questions and answers will become a bank of questions and answers which will be developed into a non-credit post-examination. This examination will be given by the instructor upon completion of the course to evaluate the effectiveness of training and demonstrate the students competency to the instructor.

d) Instructor Qualifications and Requirements

- 1) The Occupational Rehabilitation Aide Training Program Instructor shall be a ~~registered occupational therapist~~ ~~Registered Occupational Therapist~~ with a current Illinois license (see 225 ILCS 75 ~~Ill-Rev-Stat-1989, ch-117, par-3701-ee-seq~~) who has no other duties during the hours while engaged in instruction of the training program, and who has had a minimum of three (3) years experience with at least two (2) years experience working with geriatrics in a non-acute setting.
- 2) The Physical Rehabilitation Aide Training Program Instructor shall be a physical therapist with a current or pending Illinois license (see 225 ILCS 90 ~~Ill-Rev-Stat-1989, ch-117, par-4251-ee-seq~~) who has no other duties during the hours while engaged in instruction of the training program, and who has had a minimum of three (3) years experience with at least two (2) years experience working with geriatrics in a non-acute setting.
- 3) Instructor vitae must be submitted and a copy of his or her ~~his/her~~ current license or verification from the Department of Registration and Education of pending licensure.

e) Course Requirements

- 1) The basic content must be presented in a minimum time frame of three (3) days but not to exceed a maximum of ~~twenty-one~~ 21 days unless it is being done by a educational institution (e.g. four year college or university, two year community college, or vocational school) on a term, semester or trimester basis. A

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- Code-395-3207-
- 2) Physical Rehabilitation Aide (PRA).
 - A) Certified Nurse Aide (see 77 Ill. Adm. Code 395.300); or
 - B) ~~A-PRA-currently-enrolled-in-an-IBPH-Basic-Nursing-Assistance-training-Program-(see-77-ill-Adm-Code--395-300)-but-must-hold-a-validated-certificate-from-IBPH-prior-to-functioning-as-a-PRA-after-January-17-1987-or~~ ~~As-a-PRA-completion-as-determined-by-the-educational-institution--of-one-year-of-education-in-a-curriculum-leading-to-credentials-as-a-Registered-Nurse-registered-nurse (RN) or Licensed Practical Nurse a-licensed-practical-nurse (LPN); or~~
 - C) ~~Developmental Disabilities Aide (see 77 Ill. Adm. Code 395.310); or~~
 - B) ~~A--PRA--currently--enrolled--in--an--IBPH--Developmental Disabilities-Aide-training-Program-(see-77-ill-Adm--Code-395-310)-or~~
 - D) ~~Basic Child Care/Habilitation Aide (see 77 Ill. Adm. Code 395.320).7-or~~
 - G) ~~A--PRA--currently--enrolled--in--an--IBPH--Basic--Child Care/Habilitation-Aide--training-Program-(see-77-ill-Adm-Code-395-320)-~~

c) Criteria for a IDPA Approved Basic Rehabilitation Aide Training Program ~~is~~ are as follows:

- 1) Application Procedures.
 - The following information must be furnished to the Department at least ~~sixty~~ 60 days in advance of the training program. Each program sponsor providing its own training must apply for individual program approval. Retroactive approval will not be granted.
 - A) Program rationale, i.e., philosophy, purpose and brief summary of the identified sponsoring agency and faculty qualifications.
 - B) Complete outline which specifies program title, objectives, content, and methodology delineated by hour. The instructor has flexibility of teaching content in desired outline.
 - C) Location and scheduled dates of program (including future dates). If programs are canceled or rescheduled for any reason, the Department must be notified prior to delivery date for purposes of monitoring.
 - D) A copy of the evaluation tool for participant use must be included. The evaluation tool must evaluate the objectives, content, and instructors.
- 2) Submitted materials will be reviewed by the Department, and the program sponsor will be notified of the Department's action. Approval will be based upon the compliance of the submitted materials with the requirements of this section. If the program is not approved, the reason for this decision will be given to

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ratio of two (2) hours of didactic instruction to one (1) hour of experiential learning exercises must be reflected in the ~~twenty four--~~ 24 hours minimum of training. Term, semester and trimester courses may be submitted by an educational institution. The program must include designated hours for each method of teaching.

2) The Basic Occupational Rehabilitation Aide Training Program shall include at a minimum:

- A) Module I: Purpose and philosophy.
 - i) Define the objectives of the occupational rehabilitation program. Upon completion of this unit of instruction, the student will be able to: Differentiate among habilitation, rehabilitation, and occupational therapy; and understand the philosophy of habilitation, rehabilitation and occupational therapy.
 - ii) Identify the concepts of rehabilitation. Upon completion of this unit of instruction, the student will be able to: Discriminate rehabilitation from restorative measures; identify purpose of the restorative measures; identify purpose of rehabilitation measures; and list four compensatory techniques.
 - iii) Understand the relationship of occupational rehabilitation ~~Occupational--Rehabilitation~~ to other long term care facility departments. Upon completion of this unit of instruction, the student will be able to: Match the department name with a description of its function; and list three forms of communication used by the facility to develop an interdisciplinary approach to resident care.
 - iv) Understand standards of conduct with residents, family, friends, and other staff. Upon completion of this unit of instruction, the student will be able to: Define the purpose of confidentiality; identify appropriate responses to be used with family and friends ~~family/friends~~ of residents; identify appropriate responses to resident's behavior; understand need for separation of work and home life; understand the difference between empathy and sympathy; understand ethical responsibility; define fraud; and examine methods to be used to deal with situations that may require applications of ethical responsibility.
- B) Module II: Overview of policies.
 - i) Understand procedures pertaining to occupational rehabilitation ~~Occupational--Rehabilitation~~. Upon completion of this unit of instruction, the student

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will be able to: Define the characteristics of appropriate candidates; and understand general admission and discharge criteria.

- ii) Understand program documentation requirements. Upon completion of this unit of instruction, the student will be able to: Identify identify the role of documentation; have an awareness of techniques used in screening and assessment; define common medical terminology and abbreviations

~~terminology/abbreviations~~; read an evaluation and treatment ~~evaluation/treatment~~ plan; identify components of care plans; and explain ORA's methods of communication of information to the OTR/L.

C) Module III: Specific occupational rehabilitation ~~Occupational-Rehabilitation~~ techniques.

- i) Develop an awareness of the physical component skills necessary to carry out ADL tasks. Upon completion of this unit of instruction, the student will be able to: Define and describe physical deficits that lead to ADL dysfunction, namely cardiovascular accident ~~Cardiovascular--Accident~~, arthritis ~~Arthritis~~, Parkinson's, multiple sclerosis ~~Multiple-Sclerosis~~, diabetes ~~Diabetes~~, fractures and amputations ~~Fractures/Amputations~~, Alzheimer's disease and related disorders, and developmental disabilities ~~Developmental--Disabilities~~; and have had an opportunity to experience procedures and suggested activities used for remediation and compensation for physical deficits.
- ii) Develop an awareness of the sensory problems that lead to ADL dysfunction. Upon completion of this unit of instruction, the student will be able to: Define and describe sensory deficits that lead to ADL dysfunction, namely cardiovascular accident ~~Cardiovascular--Accident~~, arthritis ~~Arthritis~~, Parkinson's, multiple sclerosis ~~Multiple-Sclerosis~~, diabetes ~~Diabetes~~, fractures and amputations ~~Fractures/Amputations~~, Alzheimer's disease and related disorders, and developmental disabilities ~~Developmental--Disabilities~~; have had an opportunity to experience procedures and suggested activities used for remediation and compensation of sensory loss; and expand his or her ~~student's~~ knowledge of techniques used by the ORA to improve the resident's functioning and compensate for loss of function or to adapt to permanent loss.
- iii) Develop an awareness of perceptual and integration components that lead to ADL ~~perceptual/integration~~

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dysfunction. Upon completion of this unit of instruction, the student will be able to: Have an awareness of perceptual and integrative ~~perceptual/integrative~~ deficits that lead to ADL dysfunction, namely body image and scheme ~~image/scheme~~, agnosia, apraxias, figure and ground ~~figure/ground~~, midline, preservation, and sequencing; and have had an opportunity to experience procedures and suggested activities used for remediation and compensation of perceptual and integrative ~~perceptual/integrative~~ dysfunction.

- iv) Develop an awareness of cognitive deficits that lead to ADL dysfunction. Upon completion of this unit of instruction, the student will be able to: Identify components of cognition, namely memory, attention span, ability to learn new tasks, problem solving, and judgment; and have had an opportunity to experience procedures and suggested activities used for remediation and compensation for ADL dysfunction.
- v) Develop an understanding of the role that motivation and interest play in the rehabilitation process. Upon completion of this unit of instruction, the student will be able to: Identify techniques used to gain and hold the resident's interest; and identify techniques used to motivate the resident.

- vi) Understand the deficits of disease, disability and the aging process. Upon completion of this unit of instruction, the student will be able to: Describe and identify symptomatology of the following conditions: - arthritis ~~Arthritis~~, Parkinson's, multiple sclerosis ~~Multiple~~---~~Sclerosis~~, diabetes ~~Diabetes~~, fractures and amputations ~~Fractures/Amputations~~, Alzheimer's disease and related disorders, and developmental disabilities ~~Developmental~~---~~Disabilities~~; and have had an opportunity to experience procedures, adaptation techniques, equipment and environment to enhance independence in ADLs related to enhancing deficit areas.

- vii) Learn body mechanics and methods of positioning residents. Upon completion of this unit of instruction, the student will be able to: Demonstrate principles of proper positioning in bed, chair and standing; and demonstrate principles of repositioning and moving residents.

- viii) Understand expected behaviors and responsibilities related to emergency procedures. Upon completion of this unit of instruction, the student will be able

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to: Identify the ORA's role with regard to falls, fractures, fires, catheter bags and infection control; and list the adverse symptoms that should caution the ORA.

- D) Module IV: Psychological concepts.
 - i) Identify stereotypes and myths of the aged/chronically disabled. Upon completion of this unit of instruction, the student will be able to: Define aging; define chronic dysfunctional process; and discriminate myths and stereotypes ~~myths/stereotypes~~ from reality.
 - ii) Recognize the multiple problems of the aged and chronically disabled. Upon completion of this unit of instruction, the student will be able to: Identify types of problems facing the elderly in nursing homes; and identify types of problems facing the disabled in nursing homes.
 - iii) Understand one's own personal attitudes regarding the elderly and chronically disabled. Upon completion of this unit of instruction, the student will be able to: Discuss how attitudes and values effect expectations of achievement.
 - iv) Identify Kubler ~~Ruebber~~ Ross' stages of death and dying and how they relate to loss. Upon completion of this unit of instruction, the student will be able to: List the five stages of the grieving process; and discuss ways to deal with the resident's behavior in each stage.
 - v) Understand how physical, emotional, psychological losses lead to depression and decreased function. Upon completion of this unit of instruction, the student will be able to: Identify losses that occur in aging; and identify losses that occur in chronic illness.
 - vi) Understand self esteem and those factors which effect positive and negative motivation. Upon completion of this unit of instruction, the student will be able to: Identify factors that influence motivation positively; identify factors that influence motivation negatively; and recognize impact that a care giver can have on the resident's self esteem.
- 3) The Basic Physical Rehabilitation Aide Training Program shall include at a minimum:
 - A) Module I: Philosophy and purpose.
 - i) Define the role of restorative nursing in long term care. Upon completion of this unit of instruction, the student will be able to: Discern the difference between restorative nursing and physical

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rehabilitation; and define the role of the nursing assistant in restorative care.

- ii) Define the role of physical rehabilitation Physical Rehabilitation programs in long term care. Upon completion of this unit of instruction, the student will be able to: Define the role of the Physical Rehabilitation Aide; and identify the acceptable parameters of practice for the Physical Rehabilitation Aide, i.e., no manual stretching, no manual resistance.

- iii) Identify the effects of aging. Upon completion of this unit, the student will be able to: Understand the normal aging process; understand the chronic pathophysiological process; and discriminate myths and stereotypes myths/stereotypes of aging.

- iv) Identify the goals/objectives of physical rehabilitation Physical Rehabilitation. Upon completion of this unit of instruction, the student will be able to: Identify modalities used in physical rehabilitation Physical-Rehabilitation to improve functional abilities; identify methods used to upgrade gross motor function; identify methods used to assist a resident to develop alternative methods of mobility; will be able to demonstrate methods used to improve safety during application of functional mobility techniques.

- v) Identify the benefits of rehabilitation and restorative Rehabilitation/Restorative services. Upon completion of this unit of instruction, the student will be able to: Experience techniques that can be used to motivate a resident to achieve the highest level of function; identify methods to use in providing emotional support; increase awareness of the role of rehabilitation and restorative Rehabilitation/Restorative services in improving the resident's self-image; and understand the role these services play in encouraging participation in activities, socialization and vocational programs.

- vi) Identify the PRA's expected attitudes and standards of conduct. Upon completion of this unit of instruction, the student will be able to: State the consequences of falsifying records; discuss methods to deal with situations where the PRA may be asked to falsify records; understand consequences of practicing outside the realm of their duties, i.e., doing assessments, reassessments and evaluations of residents; demonstrate methods to be used to maintain modesty and dignity of residents; understand the PRA's role in

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maintaining confidentiality; and understand and respect the resident's rights.

- B) Module II: Terminology and abbreviations Terminology/abbreviations.

- i) Standard medical terminology used in physical rehabilitation Physical-Rehabilitation. Upon completion of this unit of instruction, the student will be able to: Define the standard terms used in physical rehabilitation Physical Rehabilitation; and read and understand a physical therapist's Physical-therapist's assessment and progress notes.

- ii) Standard medical abbreviations used in physical rehabilitation Physical-Rehabilitation. Upon completion of this unit of instruction, the student will be able to: Translate translate abbreviations; and to read and understand a physical therapist's Physical-therapist's assessment, i.e., identification of problems, goals, approaches and programs approaches/programs.

- C) Module III: Disease process.

- i) Identify the major neuromuscular disorders encountered in physical rehabilitation Physical-Rehabilitation. Upon completion of this unit of instruction, the student will be able to: Identify the major characteristics of a resident with status post CVA, multiple sclerosis Multiple-Sclerosis and Parkinson's disease; experience methods used to provide physical rehabilitation Physical-Rehabilitation services to residents with these conditions; and identify precautions to be observed when delivering services to these clients.

- ii) Identify the major musculoskeletal disorders encountered in physical rehabilitation Physical Rehabilitation. Upon completion of this unit of instruction, the student will be able to: Identify the major characteristics of a resident with fractures, amputations of limbs, osteoporosis, arthritis; experience methods used to provide physical rehabilitation Physical-Rehabilitation services to residents with these conditions; and identify precautions to be observed when delivering services to these clients.

- iii) Understand the basic body responses of a person with cardiopulmonary disease to physical rehabilitation Physical-Rehabilitation. Upon completion of this unit of instruction, the student will be able to: Identify the impact on an impaired cardiopulmonary system when

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reasons:
A) If the trainee lacks the prerequisites specified in subsection (b) of this Section, or
B) If the trainee has been found guilty of abuse, neglect, or theft, based upon information on the Illinois Department of Public Health Nurse Aide Registry.
3) The Department will return the validated certificates to the sponsor(s) for distribution. The following minimum information must be typed on the certificates before they are sent to the Department for validation:
A) Name of trainee and social security Social-Security number.
B) Title: Basic Occupational or Physical Rehabilitation Training Program, as appropriate.
C) Candidate qualifications, e.g., CNA, Developmental Disabilities Aide 36-hour-activity-course (see subsection (b) of this Section).
D) Identification number of the program.

4) Successful completion of the course does not imply "certification" of the rehabilitation aide by the State. It only indicates that the person has successfully completed the Basic Rehabilitation Aide Training Program and that Services services provided by this individual to Medicaid recipients living in licensed long term care facilities may be eligible for reimbursement so long as the individual possesses a validated certificate from the IDPA and all of Section 147.50 the-rate pertaining to this subsection (h)(4) sub-section is adhered to (see Sections 147.50(j)(1)(A) 147.50(d)(2)(B)(iii) and 147.50(k)(1)(A) 147.50(d)(2)(B)(iii)).

1) Requests for approval of programs and other related correspondence are to be submitted to the Bureau of Long Term Quality Care.

(Source: Amended at 19 Ill. Reg. 7944, effective JUN 0 5 1995)

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subjected to Physical--Rehabilitation Physical rehabilitation; experience methods used to provide physical rehabilitation Physical--Rehabilitation services to residents with these conditions; and identify precautions to be observed when delivering services to these clients.

iv) Identify the neurological disorders encountered in physical rehabilitation Physical Rehabilitation: Identify the major characteristics of a resident with Alzheimer's disease, epilepsy Epilepsy and organic brain syndrome Organic--Brain--Syndrome; experience methods used to provide Physical rehabilitation Physical--Rehabilitation services to residents with these conditions; and identify precautions to be observed when delivering services to these clients.

f) To evaluate the effectiveness of the Basic Rehabilitation Aide Training in educating the trainees, upon completion of the training program, each participant must take a non-credit post-test that encompasses the didactic and experiential learning opportunities presented. The Department will provide a post-test that shall be developed from questions submitted by licensed occupational and physical therapists who have received IDPA approval for rehabilitation aide courses. A summary of post-test scores must be returned to the Department. The instructor shall submit for validation only those certificates of students who the instructor feels have demonstrated competency.

g) The Illinois Department of Public Aid shall monitor the training program. If the program, approved pursuant to subsection (c)(3) of this Section, is not being delivered, program approval will be rescinded.

h) Certificates

1) Proof of successful completion of the approved program necessitates the sponsoring organization to award certificates to the trainees. The following information must be sent to the Department prior to the Department validating the certificates:

- A) Evidence evidence of successful completion of the designated course, i.e., the certificate,
- B) A list of the names of attendees,
- C) A list of social security numbers of the attendees,
- D) Course course completion date,
- E) Program program approval number,
- F) The the CNA's certificate, or
- G) Proof proof of credentials other than the CNA certificate, that qualify the student to be a candidate. A certificate will-not-be-validated-if-the-trainee-lacks-the-prerequisites specified-in-subsection-(b).

2) The Department will not validate a certificate for the following

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- 1) Heading of the Part: Special Eligibility Groups
- 2) Code Citation: 89 Ill. Adm. Code 118
- 3) Section Numbers: Adopted Action:
118.300 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, par. 12-13)[305 ILCS 5/12-].
- 5) Effective Date of Amendments: June 5, 1995
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these Amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: June 5, 1995
- 9) Notice of Proposal Published in Illinois Register: January 27, 1995 (19 Ill. Reg. 829)
- 10) Has JCAR issued a Statement of Objections to these Adopted Amendments? No
- 11) Differences between proposal and final version: No changes were made to the text of the proposed amendments.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these Amendments replace Emergency Amendments currently in effect?
No
- 14) Are there any Amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: These amendments implement provisions of 1634(d) of the Social Security Act. This rulemaking removes the age limit criteria as an eligibility factor for the group of widows and widowers who are eligible for medical assistance without regard to income eligibility requirements. As a result of these amendments, the 60 through 64 age requirement will no longer have to be met for these individuals to receive medical assistance under the Aid to the Aged, Blind or Disabled (AABD) Program.
- 16) Information and questions regarding these Adopted Amendments shall be directed to:

Judy Umunna

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Bureau of Rules and Regulations
Illinois Department of Public Aid
100 South Grand Avenue East, Third Floor
Springfield, Illinois 62762
(217) 524-3215

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF PUBLIC AID
NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER b: ASSISTANCE PROGRAMS
PART 118
SPECIAL ELIGIBILITY GROUPS

SUBPART A: DISABLED ADULT CHILDREN

Section
118.100 Disabled Adult Children

SUBPART B: PERSONS WITH ACQUIRED
IMMUNODEFICIENCY SYNDROME (AIDS) OR AIDS RELATED COMPLEXES (ARC)

Section
118.150 Continuation of Health Insurance Coverage
118.200 Drugs to Prolong the Lives of Persons With Acquired Immunodeficiency
Syndrome (AIDS) or AIDS Related Complexes (ARC)

SUBPART C: WIDOWS AND WIDOWERS

Section
118.300 Widows and Widowers

SUBPART D: MISCELLANEOUS PROGRAM PROVISIONS

Section
118.400 Incorporation By Reference

AUTHORITY: Implementing Articles III, IV, VI and Section 5-18 and authorized
by Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23,
pars. 3-1 et seq., 4-1 et seq., 6-1 et seq., 5-18 and 12-13) [305 ILCS 5/Arts.
III, IV, VI and 5-18 and 12-13].

SOURCE: Emergency rule adopted at 12 Ill. Reg. 3037, effective January 15,
1988, for a maximum of 150 days; adopted at 12 Ill. Reg. 6301, effective March
18, 1988; amended at 12 Ill. Reg. 8068, effective April 26, 1988; amended at 13
Ill. Reg. 3950, effective March 10, 1989; amended at 14 Ill. Reg. 10442,
effective June 20, 1990; emergency amendment at 15 Ill. Reg. 8708, effective
June 1, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 11607,
effective July 15, 1992; emergency amendment at 17 Ill. Reg. 11217, effective
July 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19956,
effective November 12, 1993; amended at 19 Ill. Reg. 7959, effective
JUN 0 5 1995.

SUBPART C: WIDOWS AND WIDOWERS

Section 118.300 Widows and Widowers

Individuals who meet the following criteria are eligible, without regard to
income eligibility requirements, for medical assistance under the Aid to the
Aged, Blind or Disabled (AABD) Program.

a) Disabled widows/widowers widows and widowers who:

- 1) were entitled to benefits under Title II of the Social Security
Act (SSA) for December 1983;
 - 2) were entitled to and received SSA disabled widow's/widower's
benefits for January 1984;
 - 3) are ineligible for Supplemental Security Income (SSI) and/or
State Supplemental Payment (SSP) due to the increase in widow's
or widower's benefits;
 - 4) have been continuously entitled to widow's or widower's benefits
since the first month of the benefit increase; and
 - 5) would be eligible for SSI and/or SSP if the amount of the
increase and any subsequent cost of living adjustments in widow's
or widower's benefits were disregarded.
- b) Widows/widowers and widowers receiving early benefits who:
- 1) are age sixty (60) through sixty-four (64) are eligible for
and receiving early widow's or widower's benefits under Title II
of the Social Security Act;
 - 2) are not entitled to Medicare Part A (hospital insurance) as
determined by the Social Security Administration; and
 - 3) received SSI but are now ineligible for SSI benefits or SSP
because of receipt of Title II benefits.

(Source: Amended at 19 Ill. Reg. 7959, effective
JUN 0 5 1995)

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- 1) Heading of the Part: Individualized Written Rehabilitation Program (IWRP)
- 2) Code Citation: 89 Ill. Adm. Code 572

3) Section Numbers: Adopted Action:

572.10 Amendment
 572.30 Amendment
 572.40 Amendment
 572.50 Amendment
 572.60 Amendment
 572.70 Amendment
 572.80 Amendment
 572.90 Amendment
 572.100 Amendment
 572.110 Amendment
 572.200 Amendment

- 4) Statutory Authority: Implementing and authorized by Sections 3(a), (b), and (k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(a), (b), and (k)].

- 5) Effective Date of Rulemaking: June 2, 1995

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Does this rulemaking contain incorporations by reference? No

- 8) Date Filed in Agency's Principal Office: June 2, 1995

- 9) Notice of Proposal Published in Illinois Register:
 December 2, 1994, 18 Ill. Reg. 17163

- 10) Has JCAR issued a Statement of Objections to these rules? No

- 11) Difference(s) between proposal and final version:
 JCAR recommendations

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

- 13) Will this rulemaking replace an emergency rule currently in effect? No

- 14) Are there any amendments pending on this Part? No

- 15) Summary and Purpose of Rulemaking:

The amendments to Section 572.40 are being made to clarify that the customer's Individualized Written Rehabilitation Program (IWRP) and Individualized Education Program (IEP) must be coordinated only as

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appropriate. Previous language indicated the IWRP and IEP must be coordinated in all instances. All other amendments are changes from "client" to "customer".

- 16) Information and questions regarding these adopted amendments shall be directed to:

Name: Ms. Susan Warner, Manager
 Address: Regulations and Procedures Services
 Department of Rehabilitation Services
 P.O. Box 19429
 Springfield, Illinois 62794-9429
 Telephone: (217) 785-3896
 TTY: (217) 785-9301

The full text of the Adopted Amendment begins on the next page:

DEPARTMENT OF REHABILITATION SERVICES

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TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF REHABILITATION SERVICES
SUBCHAPTER b: VOCATIONAL REHABILITATION

PART 572

INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM (IWRP)

Section	
572.10	General Applicability
572.20	Commencement of the IWRP
572.30	Purpose of the IWRP
572.40	Coordination of the IWRP with an Individualized Educational Program (IEP)
572.50	IWRP Development and Content
572.60	Format of the IWRP
572.70	Services to Families
572.80	IWRP Amendments
572.90	Notice of Changes to the IWRP
572.100	Case File Documentation
572.110	Review of IWRP
572.200	Reporting of <u>Client</u> Customer Participation

AUTHORITY: Implementing and authorized by Sections 3(a), (b), and (k) of the Disabled Persons Rehabilitation Act (Ill. Rev. Stat. 1991, ch. 23, pars. 3434(a), (b), and (k)) [20 ILCS 2405/3(a), (b), and (k)].

SOURCE: Adopted at 9 Ill. Reg. 8801, effective June 10, 1985; amended at 11 Ill. Reg. 5144, effective March 17, 1987; amended at 14 Ill. Reg. 18561, effective November 5, 1990; amended at 15 Ill. Reg. 17367, effective November 19, 1991; emergency amendments at 17 Ill. Reg. 11770, effective July 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20438, effective November 15, 1993; amended at 19 Ill. Reg. 7963, effective JUN 0 2 1995.

Section 572.10 General Applicability

Rules contained within this Part are applicable to all Department of Rehabilitation Services' (DORS) Vocational Rehabilitation (VR) clients customers.

(Source: Amended at 19 Ill. Reg. 7963, effective JUN 0 2 1995)

Section 572.30 Purpose of the IWRP

a) The IWRP is a non-binding agreement between the client customer and DORS that outlines the services DORS intends to provide, or to assist the client customer in the attainment of, to enhance the capacity of

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the client customer to achieve his/her employment objective(s).
b) The IWRP identifies the program of services that will assist the individual to achieve his/her employment objective consistent with his/her unique strengths, resources, priorities, concerns, abilities and capabilities.
c) All services that will be provided to a client customer, after eligibility has been determined and a Comprehensive Assessment of Rehabilitation Needs to the extent necessary for the individual client customer has been completed, must be listed on the client's IWRP.

(Source: Amended, 19 Ill. Reg. 7963, effective JUN 0 2 1995)

Section 572.40 Coordination of the IWRP with an Individualized Educational Program (IEP)

In all cases of secondary school students/customers clients (public, private, state-operated schools) for whom whenever an IEP (as described in 23 Ill. Adm. Code 226.5 "Terms Defined") is involved, DORS' IWRP shall be prepared in coordination with the educational facility and shall include a summary of vocationally relevant elements of the IEP which relate to the vocational goals and objectives contained in the IWRP. In all cases the customer/student is receiving secondary educational services under an IEP, a copy of the IEP must be in the customer's/student's case file.

(Source: Amended at 19 Ill. Reg. 7963, effective JUN 0 2 1995)

Section 572.50 IWRP Development and Content

a) After completion of the Comprehensive Assessment of Rehabilitation Needs (89 Ill. Adm. Code 553.100), an IWRP must be developed to outline the specific services the client customer will receive to enhance the ability of the client customer to achieve his/her employment objective(s).
b) The IWRP must be jointly developed, agreed to and signed by the client customer, or, as appropriate, the client's customer's parent, family member, guardian, advocate, or authorized representative, and the counselor.
c) The IWRP must contain the following:

- 1) a statement of the long term rehabilitation goals based on the Comprehensive Assessment of Rehabilitation Needs (89 Ill. Adm. Code 553.100), including an assessment of the client's customer's career interests, the goal for which shall be, to the maximum extent possible, an employment outcome in an integrated setting;
- 2) a statement of intermediate rehabilitation objectives related to attainment of the client's customer's employment goal and how these objectives are to be met, based on the informed choice of

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the client customer, in the most individualized and integrated setting;

- 3) a statement of the specific VR services to be provided, with anticipated beginning and ending dates for each service;
- 4) an assessment, and a reassessment prior to case closure, of the expected need for post-employment services;
- 5) an objective criteria and evaluation method, with specific dates, to determine if the goals and objectives are being met;
- 6) a description of the terms and conditions under which services will be provided to the client customer in the most integrated setting possible;
- 7) identification of the entity or entities that provide VR services to the client customer and how the client customer will receive the specific services (e.g., by attending an on-site training program, by office visits to a medical service provider, etc.);
- 8) a statement by the client customer, in the client's customer's words, or if appropriate, by a parent, family member, guardian, advocate or authorized representative, describing how the client customer was informed about his/her options regarding his/her objectives, services, service providers and methods of service procurement and how he/she was involved in making these choices;
- 9) the client's customer's rights and remedies, including recourse under the appeals process (89 Ill. Adm. Code 510);
- 10) a description of the availability of services through the Client Assistance Program; and
- 11) information regarding other related benefits and services the client customer may access, which will not be services DORS will assist in obtaining, but which may assist in the attainment of his/her employment goal.

d) As appropriate, the client's customer's IWRP must also contain:

- 1) identification of necessary rehabilitation technology services;
- 2) identification of the anticipated need for on-the-job and related Personal Assistance services;
- 3) assessment of the client's customer's needs for extended services, and prior to case closure after attainment of the employment goal, reassessment of such needs; and
- 4) a statement describing how services shall be provided or arranged through cooperative agreements with other service providers.

(Source: Amended at 19 Ill. Reg. 7963, effective JUN 02 1995)

Section 572.60 Format of the IWRP

A copy of the original IWRP and any amendments must be provided to the client customer and must, to the maximum extent possible, be provided in the client's customer's native language or mode of communication, or, as appropriate, in the native language or mode of communication of the parent, family member,

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guardian, advocate or authorized representative.

(Source: Amended at 19 Ill. Reg. 7963, effective JUN 02 1995)

Section 572.70 Services to Families

DORS shall provide VR services as contained in 89 Ill. Adm. Code: Chapter IV, Subchapter b, "Vocational Rehabilitation" to a client's customer's family members when those services are necessary to assist the client customer in attaining or retaining a suitable employment outcome.

(Source: Amended at 19 Ill. Reg. 7963, effective JUN 02 1995)

Section 572.80 IWRP Amendments

a) Any change to an individual's planned program of services, vocational goals, or objectives requires an amendment to the IWRP. The case file must have documentation reflecting the reasons for the amendment. Closures require an IWRP amendment.

b) Any amendments or revisions resulting from an annual review (89 Ill. Adm. Code 572.110) shall not take effect until the changes are agreed to and signed by the client customer or, as appropriate, the parent, family member, guardian, advocate or authorized representative.

(Source: Amended at 19 Ill. Reg. 7963, effective JUN 02 1995)

Section 572.90 Notice of Changes to the IWRP

Adequate, timely notification of any DORS - initiated change to the IWRP must be provided to the client customer. Such notification must be made in writing at least 15 work days prior to the effective date of change unless the client customer has signed the IWRP indicating agreement with the change. The notification must conform to 89 Ill. Adm. Code 510.60(d).

(Source: Amended at 19 Ill. Reg. 7963, effective JUN 02 1995)

Section 572.100 Case File Documentation

The client's customer's case file must contain documentation and justification for any decision to provide, deny, or alter any services, based on the client's customer's and counselor's knowledge of the client's customer's service needs, the availability of appropriate services, and DORS rules (89 Ill. Adm. Code: Chapter IV, Subchapter b, "Vocational Rehabilitation").

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(Source: Amended JUN 02 1995, 19 Ill. Reg. 7963, effective _____)

Section 572.110 Review of IWRP

An IWRP shall be reviewed whenever necessary, but at least annually, to ensure that services being provided are adequate and appropriate to ensure the client customer a successful employment outcome.

(Source: Amended at 19 Ill. Reg. 7963, effective JUN 02 1995)

Section 572.200 Reporting of Client Customer Participation

Counselors shall report to the Social Security Administration SSI/SSDI beneficiaries who:

- a) are refusing VR services,
- b) are failing to cooperate, or
- c) cannot be located.

(Source: Amended at 19 Ill. Reg. 7963, effective JUN 02 1995)

DEPARTMENT OF STATE POLICE MERIT BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Procedures of the Department of State Police Merit Board

2) Code Citation: 80 Ill. Adm. Code 150

3) Section Numbers: 150.430 Adopted Action: Amendment

4) Statutory Authority: Ill. Rev. Stat. 1991, ch. 121, par. 307.10 [20 ILCS 2610/10].

5) Effective Date of Rulemaking: June 1, 1995

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: May 30, 1995

9) Notice of Proposal Published in Illinois Register: February 10, 1995, 19 Ill. Reg. 1270

10) Has JCAR issued a Statement of Objections to these rules? No

11) Difference(s) between proposal and final version:

Format changes were made in accordance with the suggestions received from the Administrative Code Unit.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking:

Section 150-430 - This change will allow all Lieutenant, Captain, and Major candidates to participate in assessment exercises and to calculate the top 65% of candidates after all components of the promotional process have been completed.

16) Information and questions regarding this adopted amendment shall be directed to:

Name: James E. Seiber, Executive Director
Address: 3180 Adloff Lane, Suite 100

DEPARTMENT OF STATE POLICE MERIT BOARD

NOTICE OF ADOPTED AMENDMENTS

Springfield, IL 62703

Telephone: 217/786-6240

The full text of the Adopted Amendment begins on the next page:

DEPARTMENT OF STATE POLICE MERIT BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE A: MERIT EMPLOYMENT SYSTEMS

CHAPTER IV: DEPARTMENT OF STATE POLICE MERIT BOARD

PART 150

PROCEDURES OF THE DEPARTMENT OF STATE POLICE MERIT BOARD

SUBPART A: DEFINITIONS

Section
150.10

Definitions

SUBPART B: CERTIFICATION FOR APPOINTMENT

Section
150.210
150.220
150.230
150.240

Qualifications
Selection Procedures
Recertification
Probationary Period

SUBPART C: CLASSIFICATION OF RANKS

Section
150.310
150.320

Ranks
Interdivisional Transfers

SUBPART D: CERTIFICATION FOR PROMOTION

Section
150.410
150.420
150.430
150.440

Board Responsibilities
Eligibility
Procedures
Promotion Probationary Period (Repealed)

SUBPART E: DISCIPLINARY ACTION

Section
150.510
150.520
150.530
150.540
150.550
150.560
150.565
150.570
150.575
150.580
150.585

Merit Board Jurisdiction
Discipline Afforded the Deputy Director
Notification to Suspended Officer
Petition for Review
Form and Content of Petition for Review
Filing Procedures
Procedure for Processing Petition for Review
Director's Review
Discipline Afforded the Director
Complaint Procedures
Scheduling the Hearing

DEPARTMENT OF STATE POLICE MERIT BOARD

NOTICE OF ADOPTED AMENDMENTS

150.590 Notification to Officer

SUBPART F: HEARINGS

- | | |
|---------|-------------------------------------|
| Section | |
| 150.610 | Board Docket |
| 150.620 | Hearing Officer |
| 150.630 | Pre-hearing Conferences |
| 150.640 | Motions |
| 150.650 | Subpoenas |
| 150.655 | Request for Witnesses or Documents |
| 150.660 | Evidence Depositions |
| 150.665 | Hearing Procedures |
| 150.670 | Continuances and Extensions of Time |
| 150.675 | Computation of Time |
| 150.680 | Decisions of the Board |
| 150.685 | Service and Form of Papers |

APPENDIX A Vision Standards
APPENDIX B Physical Fitness Standards

AUTHORITY: Implementing Sections 3 through 14 and authorized by Section 8 of the State Police Act [20 ILCS 2610/3 through 14].

SOURCE: Emergency rule adopted at 2 Ill. Reg. 10, p. 206, effective February 24, 1978, for a maximum of 150 days; emergency amendment at 2 Ill. Reg. 32, p. 237, effective July 27, 1978, for a maximum of 150 days; emergency amendments at 2 Ill. Reg. 51, p. 100, effective December 7, 1978, for a maximum of 150 days; adopted at 2 Ill. Reg. 52, p. 422, effective December 25, 1978; amended at 3 Ill. Reg. 47, p. 86, effective November 12, 1979; emergency amendments at 4 Ill. Reg. 6, p. 284, effective February 1, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 2739, effective March 2, 1981; amended at 6 Ill. Reg. 10954, effective August 31, 1982; codified at 7 Ill. Reg. 9900; amended at 7 Ill. Reg. 15018, effective November 2, 1983; emergency amendments at 8 Ill. Reg. 379, effective December 27, 1983, for a maximum of 150 days; emergency amendments at 8 Ill. Reg. 3038, effective February 23, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7994, effective May 23, 1984; amended at 9 Ill. Reg. 3721, effective March 13, 1985; amended at 9 Ill. Reg. 14328, effective September 6, 1985; recodified from the Department of Law Enforcement Merit Board to the Department of State Police Merit Board pursuant to Executive Order 85-3, effective July 1, 1985, at 10 Ill. Reg. 3283; amended at 10 Ill. Reg. 17752, effective October 1, 1986; amended at 11 Ill. Reg. 7760, effective April 14, 1987; amended at 11 Ill. Reg. 18303, effective October 26, 1987; amended at 12 Ill. Reg. 1118, effective December 24, 1987; amended at 12 Ill. Reg. 10736, effective June 13, 1988; amended at 13 Ill. Reg. 5201, effective April 3, 1989; emergency amendment at 13 Ill. Reg. 16607, effective September 29, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 19592, effective December 1, 1989; amended at 14 Ill. Reg. 3679, effective February 23, 1990;

DEPARTMENT OF STATE POLICE MERIT BOARD

NOTICE OF ADOPTED AMENDMENTS

amended at 15 Ill. Reg. 11007, effective July 15, 1991; amended at 16 Ill. Reg. 11835, effective July 13, 1992; emergency amendment at 16 Ill. Reg. 17372, effective October 29, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 9716, effective June 10, 1993; expedited correction at 17 Ill. Reg. 14684, effective June 10, 1993; amended at 17 Ill. Reg. 21079, effective November 22, 1993; amended at 19 Ill. Reg. 6679, effective May 1, 1995; amended at 19 Ill. Reg. 2970, effective June 1, 1995.

SUBPART D: CERTIFICATION FOR PROMOTION

Section 150.430 Procedures

- a) The Board will provide each officer with official notification announcing the examination and requesting a written response respecting the officer's intention to participate.
- b) Candidates for promotion must complete examinations at the time designated by the Board in the official notification. No exceptions will be allowed.
- c) Such candidates must have taken the most recent examination offered by the Board to be eligible for certification for promotion. All candidates taking the examination for each rank will be advised of their total promotional score and standing.
- d) Promotional Process Components

Components	Sgt, Msg	Lt, Capt, Maj
Written Examination	50% X	X
Performance Appraisal	45% X	X
Seniority in Rank	5 X	X
Assessment Exercise	NA	X

DEPARTMENT OF STATE POLICE MERIT BOARD

NOTICE OF ADOPTED AMENDMENTS

- f) The Board will certify to the Director the top 65% of those Troopers, Special Agents and Sergeants participating in the total promotional process. ~~All---Master---Sergeants---Lieutenants---and---Captains participating---in---the---total---promotional---process---will---be---certified---by the Board.~~
- g) There will be statewide certification lists for the ranks of Lieutenant, Captain, and Major. The certification lists for Sergeant and Master Sergeant will be according to Districts, as defined jointly by the Illinois State Police and the Illinois State Police Merit Board for promotional purposes and the list for Special Agents to Sergeant will be according to Regions ~~areas~~.
- h) The top ten (10) candidates on each certification list for all ranks are equally eligible for promotion by the Director; however, in the event of a tied score, all candidates obtaining such score shall be equally eligible for promotional consideration. The Director may promote accordingly any one of the eligible candidates in accordance with Equal Employment Opportunity Commission regulations (29 CFR 1600 et seq. (July 1, 1982)) and Illinois Department of Human Rights guidelines.
- 1) As promotions are accepted or waived, that candidate with the next highest total promotional score on the list becomes equally eligible for promotion; however, in the event of a tied score, all candidates obtaining such score shall be equally eligible for promotional consideration;
 - 2) Eligible candidates on the certification list may decline an offer of promotion without losing position on the certification list. In the event of declination, that candidate with the next highest total promotional score becomes equally eligible for promotion; however, in the event of a tied score, all candidates obtaining such score shall be equally eligible for promotional consideration.
- i) Upon written notification from the Department to the Board that a candidate on the certification list has been suspended, is on leave of absence, or has applied for disability benefits, the Board will remove the candidate's name from the certification list. The candidate's name will be restored on the list in a position in proper relation to the total promotional scores remaining when the suspension or leave of absence terminates or the disability is removed.
- j) The certification list shall remain in force until the new certification list has been established; however, in the event that a certification list becomes exhausted, the Director will file a written request with the Board asking for the certification of additional names on any one list if necessary to fill vacant positions.

(Source: Amended at 19 Ill. Reg. 7970, effective JUN 01 1995)

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of Part: Clean Air Act Permit Program Procedures
- 2) Code Citation: 35 Ill. Adm. Code 270
- 3) Section Numbers: Emergency Action:
270.201 Amendments
- 4) Statutory Authority: Implementing and authorized by Section 39.5 of the Environmental Protection Act (see P.A. 87-1213, effective September 26, 1992, and P.A. 88-464, effective August 20, 1993)[415 ILCS 5/39.5]
- 5) Effective Date: June 7, 1995
- 6) Date Filed in Agency's Principal Office: May 30, 1995
- 7) Reason for Emergency: On March 6, 1995, the United States Environmental Protection Agency ("USEPA") proposed to approve a petition filed by Illinois to exempt sources of oxides of nitrogen ("NOx") emissions located in the Chicago ozone nonattainment area from certain requirements because controlling NOx emissions does not contribute to attaining the national ambient air quality standard for ozone in the Chicago area. The approval of this petition will mean that approximately 150 sources will no longer be subject to the Clean Air Act Permit Program ("CAAPP"). If required to file CAAPP applications prior to USEPA's approval of this petition, these sources will be subject to the expense of preparing these detailed applications, which range from \$15,000 to \$25,000 per source. Section 5-45 of the Administrative Procedure Act provides in pertinent part that "[e]mergency" means the existence of any situation that any agency finds reasonably constitutes a threat to the public interest, safety, or welfare." [5 ILCS 100/5-45] The public interest would be threatened without this emergency amendment because these sources would be required to make these unnecessary expenditures when such sources will not be required to obtain a CAAPP permit when USEPA approves the NOx petition. This emergency amendment will extend the due date for submittal of permit applications for certain sources of NOx emissions to allow for USEPA's final action on the petition. An emergency amendment is necessary because the Illinois Environmental Protection Agency has only recently learned that final approval by USEPA of the State's NOx petition will not be effective prior to the initial due date for CAAPP applications, which is June 7, 1995. If USEPA had finalized its approval of the NOx petition prior to June 7, 1995, these sources would no longer be subject to the CAAPP without the need for any amendments. However, prior to final approval of the NOx petition by USEPA, an emergency amendment is needed to extend the due date for CAAPP applications and avert the clear and present threat to the public interest that requiring these sources to file unnecessary permit applications would create.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF EMERGENCY AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY
PART 270
CLEAN AIR ACT PERMIT PROGRAM PROCEDURES

SUBPART A: GENERAL PROVISIONS

Section	
270.101	Purpose
270.102	Definitions
270.103	Existing CAAPP Source
270.104	Initial CAAPP Application
270.105	New CAAPP Source
270.106	Standard Industrial Classification (SIC) Code
270.107	Applicability
270.108	Incorporation by Reference

SUBPART B: TRANSITION

Section	
270.201	Schedule for Submission of Initial CAAPP Applications for Existing CAAPP Sources
EMERGENCY	
270.202	Transition from the State Operating Permit Program

The full text of the Emergency Amendment begins on the next page:

SUBPART C: CAAPP APPLICATIONS

Section	
270.301	Application Submittal
270.302	Application Submittal for Modifications of CAAPP Permits
270.303	Agency Determination of Completeness
270.304	Effect of a Timely and Complete Application Submittal
270.305	Subsequent Agency Request for Information
270.306	Submittal of New or Revised Information
270.307	Agency Action on CAAPP Applications
270.308	Requests for Exclusion from the CAAPP Due to Permanent Physical Constraints

SUBPART D: CONTENTS OF CAAPP APPLICATIONS

Section	
270.401	General Application Information
270.402	General Source Information
270.403	Information for Individual Emission Units
270.404	Compliance Plan Schedule of Compliance
270.405	Compliance Certification
270.406	Operational Flexibility

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF EMERGENCY AMENDMENTS

8) A Complete Description of the Subjects and Issues Involved: This rulemaking amends 35 Ill. Adm. Code 270.201 by adding subsection (e) to this Section to extend the initial permit application submittal deadline for sources that are subject to the Clean Air Act Permit Program because it is a major source based solely on its oxides of nitrogen ("NOx") emissions to 150 days after June 7, 1995. This extension is limited to sources located in the Chicago ozone nonattainment area with NOx emissions of less than 100 tons per year potential to emit.

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: These proposed amendments do not create or enlarge a state mandate as defined in Section 3(b) of the State Mandates Act (30 ILCS 805/3(b) (1992)).

11) Information and Questions Regarding this Emergency Amendment Shall be Directed to:

Bonnie R. Sawyer
Assistant Counsel
Illinois Environmental Protection Agency
Bureau of Air
P.O. Box 19276
Springfield, IL 62794-9276.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF EMERGENCY AMENDMENTS

270.407

Startup

270.408

Malfunction or Breakdown

270.409

Confidential Information

270.410

Permit Shield

270.411

Accidental Releases

270.412

MACT Determination

270.413

Acid Rain

SUBPART E: REOPENINGS

Section

270.501

Applicability

270.502

Purpose

270.503

Reopenings Initiated by the Agency

270.504

Reopenings Initiated by USEPA

SUBPART F: FEES

Section

270.601

Purpose

270.602

Definitions

270.603

Amount of Fee

270.604

Billing Procedures

270.605

Payment Procedures

270.606

Refund and Underpayment of Fees

270.607

Requests for Reconsideration of Fee Amount

270.608

Agency Response to Requests for Reconsideration

270.609

Appeal of Agency Response

AUTHORITY: Implementing and authorized by Section 39.5 of the Environmental Protection Act (see P.A. 87-1213, effective September 26, 1992, and P.A. 88-464, effective August 20, 1993) [415 ILCS 5/39.5].

SOURCE: Adopted at 18 Ill. Reg. 9425, effective June 14, 1994; emergency amendment at 19 Ill. Adm. Code 7976, effective June 7, 1995, for a maximum of 150 days.

SUBPART B: TRANSITION

Section 270.201 Schedule for Submission of Initial CAAPP Applications for Existing CAAPP Sources
EMERGENCY

An owner or operator of an existing CAAPP source shall submit to the Agency a complete initial CAAPP application for the source no later than the applicable date specified below:

- a) An owner or operator of a CAAPP source with the following SIC codes shall submit its initial complete CAAPP application no later than 3

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF EMERGENCY AMENDMENTS

months after the effective date of the CAAPP: 70, 80, 82, 92, and 97 (institutions); 44, 50, and 51 (material handling); 10, 12, and 14 (mining); and 2951 (asphalt plants);

- b) An owner or operator of a CAAPP source with the following SIC codes shall submit its initial complete CAAPP application no later than 6 months after the effective date of the CAAPP: 26 (paper and allied products); 27 (printing and publishing); 46, 494, and 495 (pipelines and utilities other than natural gas pipelines); 491 and 493 (electric utilities); and 32 (mineral products);

- c) An owner or operator of a CAAPP source not included in (a) or (b) above or (d) below shall submit its initial complete CAAPP application no later than 9 months after the effective date of the CAAPP; and

- d) An owner or operator of a CAAPP source with the following SIC codes shall submit its initial complete CAAPP application no later than 12 months after the effective date of the CAAPP: 20 (agricultural products); 28 (chemicals); 29 (petroleum refining not including 2951); 33 (iron and steel products); and 37 (transportation equipment); and

- e) An owner or operator of a source located in the Chicago ozone nonattainment area, as specified in 35 Ill. Adm. Code 218.100, that is required to file a CAAPP application solely because its NOx emissions are 25 tons per year or more potential to emit, but its NOx emissions are less than 100 tons per year potential to emit, shall submit its initial complete CAAPP application by the later of 150 days after June 7, 1995, or by the applicable date provided in Section 270.201(b), (c) or (d) of this Subpart.

(Source: Emergency amendment at 19 Ill. Adm. Code 7976, effective June 7, 1995, for a maximum of 150 days.

DEPARTMENT OF PUBLIC HEALTH/HEALTH FACILITIES PLANNING BOARD

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Processing, Classification Policies and Review Criteria
- 2) Code Citation: 77 Ill. Adm. Code 1110
- 3) Section Numbers: Emergency Action:
1110.230 Amendments
1110.1430 Amendments
1110.1730 Amendments
- 4) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960]
- 5) Effective Date of Emergency Rules: May 31, 1995
- 6) If this Emergency Rule is to Expire Before the End of the 150-Day Period,
Please Specify the Date on which it is to Expire: Not Applicable

7) Date Filed in Agency's Principal Office: May 31, 1995

8) Reason for Emergency: The Illinois 4th District Appellate Court, in the case of Springwood Associates v. Illinois Health Facilities Planning Board, et al, No. 4-94-0370, has challenged the validity of Board implementation and interpretation of current general review criteria applicable to the issuance of certificate of need permits. On March 3, 1995, the court overturned State Board actions on the basis of the use of terminology, such as "market studies", within the general review criteria which were not defined specific to the data which was requested in the State Board's application for permit.

Despite a long history of Board interpretation permitting the type of data submitted in the above-mentioned case, the court ruled that the term "market study" encompassed more than the data elements requested and that any State Board action based on these standards would be invalid due to a failure to require in its application the specific elements referenced in the rules. The court specifically found that the location, staffing and background of applicant review criteria contained certain data requirements which were not being considered or met through application and review process. This ruling imperils all Board actions because all applications for permit utilize these standards in review. The changes proposed to the general review criteria would bring the language of the rules in line with the data elements historically required by the State Board to meet each respective standard and eliminate language the court found problematic. The basis for the use of emergency rulemaking is to insure that needed health care facility construction is not delayed or precluded due to a conflict between informational requirements imposed by State Board rules and application forms.

DEPARTMENT OF PUBLIC HEALTH/HEALTH FACILITIES PLANNING BOARD

NOTICE OF EMERGENCY AMENDMENTS

In addition, it is necessary to implement changes to the End Stage Renal Disease (ESRD) review criteria since the present rules do not provide review criteria for evaluating expansion of existing facilities. New rules requiring review of expansions became effective March 1, 1995 and it is essential that review criteria are promulgated. The modifications to the general review criteria and to the utilization requirements concerning long-term care services were generated by legislative concern that the recent and continued growth in long-term care facilities may jeopardize the financial viability of many existing providers. A potential 2,000 new long-term care beds may become available and operational in the next year and will have a dramatic impact on the occupancy levels in currently operating facilities. The emergency rule changes seek to eliminate several exceptions in the certificate of need rules, which permit the addition of beds even though an excess number of beds exist. Some of these rule variances to bed need requirements will be eliminated, while the remaining will be amended to narrow or increase the standards, thereby reducing the availability of the exception.

The basis for the emergency rulemaking is that if new long-term care bed development is not immediately restricted, the long-term care delivery system will be threatened by severe over-development that may result in facility closure due to underutilization. Legislative initiatives, which when enacted could further restrict admissions to facilities, will create a situation of further underutilization. This dramatic underutilization may well result in closure of facilities and a resultant loss of area services and the displacement of patients.

9) A Complete Description of the Subjects and Issues Involved: Part 1110 contains the Health Facilities Planning Board's certificate of need review criteria and standards. The proposed amendments revise general review criteria in response to deficiencies noted by the appellate court, revise general long-term care review criteria eliminating several variances, and revise ESRD review criteria. Specifically, the location, staffing and background of applicant criteria are being revised to correct deficiencies noted by the Appellate Court with respect to data requirements and the use of the term "market studies". The "background of applicant" review criterion was totally rewritten to clarify the types of deficiencies which are serious and to clarify the applicant's relationship or involvement in the operation of other facilities. The end stage renal disease review criteria are revised to provide a mechanism for reviewing increases in facility capacity which became subject to review on March 1, 1995. The general review criteria are revised by deleting the accessibility and acute care variances and by clarifying the requirements for the continuum of care and defined population variances.

- 10) Are There Any Other Proposed Amendments Pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking will not affect

DEPARTMENT OF PUBLIC HEALTH/HEALTH FACILITIES PLANNING BOARD

NOTICE OF EMERGENCY AMENDMENTS

units of local government.

- 12) Information and Questions Regarding these Emergency Amendments should be directed to:

Gail M. DeVito
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, IL 62761
(217) 782-6187

The full text of the Emergency Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH/HEALTH FACILITIES PLANNING BOARD

NOTICE OF EMERGENCY AMENDMENTS

TITLE 77: PUBLIC HEALTH

CHAPTER II: DEPARTMENT OF PUBLIC HEALTH/HEALTH FACILITIES PLANNING BOARD

SUBCHAPTER a: ILLINOIS HEALTH CARE FACILITIES PLAN

PART 1110

PROCESSING, CLASSIFICATION POLICIES AND REVIEW CRITERIA

SUBPART A: GENERAL APPLICABILITY AND PROJECT CLASSIFICATION

Section
1110.10 Introduction to Part 1110
1110.20 Projects Required to Obtain a Permit (Repealed)
1110.30 Processing and Reviewing Applications
1110.40 Classification of Projects
1110.50 Recognition of Services Which Existed Prior to Permit Requirements
1110.55 Recognition of Non-Hospital Based Ambulatory Surgery Category of Service
1110.60 Master Design Projects

SUBPART B: REVIEW CRITERIA--DISCONTINUATION

Section
1110.110 Introduction
1110.120 Discontinuation--Definition
1110.130 Discontinuation--Review Criteria

SUBPART C: GENERAL REVIEW CRITERIA APPLICABLE TO ALL PROJECTS OTHER THAN DISCONTINUATION

Section
1110.210 Introduction
1110.220 Definitions--General Review Criteria
1110.230 General Review Criteria
EMERGENCY
1110.235 Additional General Review Criteria
1110.240 Mergers, Consolidations and Acquisitions

SUBPART D: REVIEW CRITERIA RELATING TO ALL PROJECTS INVOLVING ESTABLISHMENT OF ADDITIONAL BEDS OR SUBSTANTIAL CHANGE IN BED CAPACITY

Section
1110.310 Introduction
1110.320 Bed Related Review Criteria

SUBPART E: MODERNIZATION REVIEW CRITERIA

DEPARTMENT OF PUBLIC HEALTH/HEALTH FACILITIES PLANNING BOARD

NOTICE OF EMERGENCY AMENDMENTS

Section
1110.410
1110.420

Introduction
Modernization Review Criteria

SUBPART F: CATEGORY OF SERVICE REVIEW CRITERIA--
MEDICAL/SURGICAL, OBSTETRIC, PEDIATRIC AND INTENSIVE CARE

Section
1110.510
1110.520

Introduction
Medical/Surgical, Obstetric, Pediatric and Intensive
Care--Definitions
Medical/Surgical, Obstetric, Pediatric and Intensive Care--Review
Criteria

1110.530

SUBPART G: CATEGORY OF SERVICE REVIEW CRITERIA--
COMPREHENSIVE PHYSICAL REHABILITATION

Section
1110.610
1110.620
1110.630

Introduction
Comprehensive Physical Rehabilitation--Definitions
Comprehensive Physical Rehabilitation--Review Criteria

SUBPART H: CATEGORY OF SERVICE REVIEW CRITERIA--ACUTE
MENTAL ILLNESS

Section
1110.710
1110.720
1110.730

Introduction
Acute Mental Illness--Definitions
Acute Mental Illness--Review Criteria

SUBPART I: CATEGORY OF SERVICE REVIEW CRITERIA--SUBSTANCE ABUSE

Section
1110.810
1110.820
1110.830

Introduction
Substance Abuse--Definitions
Substance Abuse--Review Criteria

SUBPART J: CATEGORY OF SERVICE REVIEW CRITERIA--
NEONATAL INTENSIVE CARE

Section
1110.910
1110.920
1110.930

Introduction
Neonatal Intensive Care--Definitions
Neonatal Intensive Care--Review Criteria

SUBPART K: CATEGORY OF SERVICE REVIEW CRITERIA--BURN TREATMENT

Section

DEPARTMENT OF PUBLIC HEALTH/HEALTH FACILITIES PLANNING BOARD

NOTICE OF EMERGENCY AMENDMENTS

1110.1010
1110.1020
1110.1030

Introduction
Burn--Definitions
Burn Treatment--Review Criteria

SUBPART L: CATEGORY OF SERVICE REVIEW CRITERIA--
THERAPEUTIC RADIOLOGY

Section
1110.1110
1110.1120
1110.1130

Introduction
Therapeutic Radiology--Definitions
Therapeutic Radiology--Review Criteria

SUBPART M: CATEGORY OF SERVICE REVIEW CRITERIA--
OPEN HEART SURGERY

Section
1110.1210
1110.1220
1110.1230

Introduction
Open Heart Surgery--Definitions
Open Heart Surgery--Review Criteria

SUBPART N: CATEGORY OF SERVICE REVIEW CRITERIA--CARDIAC
CATHETERIZATION

Section
1110.1310
1110.1320
1110.1330

Introduction
Cardiac Catheterization--Definitions
Cardiac Catheterization--Review Criteria

SUBPART O: CATEGORY OF SERVICE REVIEW CRITERIA--CHRONIC RENAL DIALYSIS

Section
1110.1410
1110.1420
1110.1430

Introduction
Chronic Renal Dialysis--Definitions
Chronic Renal Dialysis--Review Criteria

EMERGENCY

SUBPART P: CATEGORY OF SERVICE REVIEW CRITERIA--NON-HOSPITAL
BASED AMBULATORY SURGERY

Section
1110.1510
1110.1520
1110.1530

Introduction
Non-Hospital Based Ambulatory Surgery--Definitions
Non-Hospital Based Ambulatory Surgery--Projects Not Subject to This
Part
Non-Hospital Based Ambulatory Surgery--Review Criteria

SUBPART Q: CATEGORY OF SERVICE REVIEW CRITERIA--COMPUTER SYSTEMS

DEPARTMENT OF PUBLIC HEALTH/HEALTH FACILITIES PLANNING BOARD

NOTICE OF EMERGENCY AMENDMENTS

Section

1110.1610 Introduction (Repealed)
 1110.1620 Computer Systems--Definitions (Repealed)
 1110.1630 Computer Systems--Review Criteria (Repealed)

SUBPART R: CATEGORY OF SERVICE REVIEW CRITERIA--GENERAL
LONG-TERM CARE

Section

1110.1710 Introduction
 1110.1720 General Long-Term Care--Definitions
 1110.1730 General Long-Term Care--Review Criteria

EMERGENCYSUBPART S: CATEGORY OF SERVICE REVIEW CRITERIA--SPECIALIZED
LONG-TERM CARE

Section

1110.1810 Introduction
 1110.1820 Specialized Long-Term Care--Definitions
 1110.1830 Specialized Long-Term Care--Review Criteria

SUBPART T: CATEGORY OF SERVICE REVIEW CRITERIA--
MAGNETIC RESONANCE

Section

1110.1910 Introduction
 1110.1920 Magnetic Resonance--Definitions
 1110.1930 Magnetic Resonance--Review Criteria

SUBPART U: CATEGORY OF SERVICE REVIEW CRITERIA--HIGH LINEAR
ENERGY TRANSFER (L.E.T.)

Section

1110.2010 Introduction
 1110.2020 High Linear Energy Transfer (L.E.T.)--Definitions
 1110.2030 High Linear Energy Transfer (L.E.T.)--Review Criteria

SUBPART V: CATEGORY OF SERVICE REVIEW CRITERIA--POSITRON
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AUTHORITY: Implementing and authorized by the Illinois Health Facilities Planning Act [20 ILCS 3960].

SOURCE: Fourth Edition adopted at 3 Ill. Reg. 30, p. 194, effective July 28, 1979; amended at 4 Ill. Reg., p. 129, effective January 11, 1980; amended at 5 Ill. Reg. 4895, effective April 22, 1981; amended at 5 Ill. Reg. 10297, effective September 30, 1981; amended at 6 Ill. Reg. 3079, effective March 8, 1982; emergency amendments at 6 Ill. Reg. 6895, effective May 20, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11574, effective September 9, 1982; Fifth Edition adopted at 7 Ill. Reg. 5441, effective April 15, 1983; amended at 8 Ill. Reg. 1633, effective January 31, 1984; codified at 8 Ill. Reg. 18498; amended at 9 Ill. Reg. 3734, effective March 6, 1985; amended at 11 Ill. Reg. 7333, effective April 1, 1987; amended at 12 Ill. Reg. 16099, effective September 21, 1988; amended at 13 Ill. Reg. 16078, effective September 29, 1989; emergency amendments at 16 Ill. Reg. 13159, effective August 4, 1992, for a maximum of 150 days; emergency expired January 1, 1993; amended at 16 Ill. Reg. 16108, effective October 2, 1992; amended at 17 Ill. Reg. 4453, effective March 24, 1993; amended at 18 Ill. Reg. 2993, effective February 10, 1994; amended at 18 Ill. Reg. 8455, effective July 1, 1994; amended at 19 Ill. Reg. 2991, effective March 1, 1995; emergency amendments at 19 Ill. Reg. 7981, effective May 31, 1995, for a maximum of 150 days.

SUBPART C: GENERAL REVIEW CRITERIA APPLICABLE TO ALL PROJECTS OTHER THAN DISCONTINUATION

Section 1110.230 General Review Criteria

EMERGENCY

a) Location--Review Criterion

- 1) The applicant must document that the primary purpose of the proposed project will be to provide care to the residents of the planning area in which the proposed project will be physically located. Documentation for existing facilities shall include patient origin information for all admissions for the last 12 months. Patient origin information must be presented by zip code and be based upon the patient's legal residence other than a health care facility for the last six months immediately prior to admission. For all other projects for which referrals are required to support the project, patient origin information for the referrals is required. Each referral letter must contain a certification that the representations contained therein are true and correct. A complete set of the referral letters with original notarized signatures must accompany the application for permit. ~~shall consist of market studies of the area indicating the characteristics of the population to be served.~~
- 2) The applicant must document that the location selected for a proposed project will not create a maldistribution of beds and services. Maldistribution is typified by such factors as:

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~~the planning area. a ratio of beds to population (population will be based upon the most recent census data by zip code), within 30 minutes travel time of the proposed facility, which exceeds one and one half times the State average; an average utilization rate for the last 12 months for the facilities providing the proposed service(s) within 30 minutes travel time of the proposed project which is below the Board's target occupancy rate; or the lack of a sufficient population concentration in an area to support the proposed project. excessive travel time to reach services; unusual patient migration patterns and excessive physical distance to alternative providers. Documentation shall consist of location and travel times to other providers; population concentrations within the planning area and proposed market for service.~~

- b) Ancillary and Supporting Services--Review Criterion. The applicant must document that the scope and size of all ancillary and support services related to the proposed project comply with the Agency's licensure requirements. Documentation shall consist of a summary of all ancillary and support services and a comparison of existing size or proposed size to licensure requirements.
- c) Staffing--Review Criterion

- 1) All applicants must document: that the supply of manpower currently available in the area is sufficient to meet the health service needs in that area. Documentation should include, but is not limited to, letters from employment services in the area indicating the number of potential health care employees on their rolls, letters from local health departments, in whose jurisdiction the applicant is located, indicating the availability of licensed personnel in the planning area, actual applications for employment on file with the applicant, and surveys performed by persons other than the applicant regarding the availability of manpower. Documentation should include--but is not limited to--letters of verification from other health facilities and organizations in the area--including any surveys done--by--such--facilities--and--organizations--on--manpower availability--and
- 2) Any applicant proposing a Long-Term Care Category of Service must document: At An adequate supply of health manpower exists--with the planning area--documentation shall consist of evidence--that less than 20% of area facilities have been cited for staffing deficiencies by the Department of Public Health in the previous inspections over the last two year period--and at that time the required staffing levels under applicable licensure and State Health Title--with Federal Medicare and Medicaid certification regulations will be met.
- d) Background of Applicant--Review Criterion. When the applicant or proposed operator of the proposed project are operating or have operated health care facilities previously, the applicant must

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document compliance with licensure requirements. Documentation must show an absence of two or more serious violations in each facility operated during the last five years. Serious violation means a type A or type B violation pursuant to 77 Ill. Adm. Code 300.9307-3507 or 3907 in a long-term care facility licensed by the Department in other facilities serious violation means an action taken to repeat licensure or certification. Each history of operation must contain all citations for operational deficiencies, any suspension or termination action, any contested licensure action and the outcome of all such actions.

1) The applicant shall demonstrate that it is fit, willing and able to and has the qualifications, background and character to adequately provide a proper standard of health care service for the community. The application must document that no adverse action has been taken against the applicant, or against any health care facility owned or operated by the applicant, directly or indirectly, within three years preceding the filing of the application.

2) For purposes of this subsection:

A) "Adverse action" means any final action by any governmental agency or nationally recognized accrediting body which is adverse to the applicant or to the health care facility. Adverse actions include, but are not limited to, any criminal conviction; any supervision, probation, suspension, revocation, termination, or denial of a license or certificate of registration; imposition of a conditional license; termination or suspension from participation in any program involving payment authorized under Title XVIII (Medicare) or Title XIX (Medicaid) of the Social Security Act, as amended; or denial, suspension, revocation or termination of accreditation by any nationally recognized organization.

B) A health care facility is considered "owned or operated" by every person or entity which, within the three years preceding the filing of the application, owns, directly, or indirectly, an ownership interest as specified in this subsection.

C) "Ownership interest" means any legal or equitable interest, including any interest arising from a lease or management agreement, which gives rise to participation in profits or losses, or which gives rise to the exercise of the implementation of any decision-making authority respecting the operations or finances of the health care facility.

i) In the case of an individual, "ownership interest" includes any interest owned or exercised, directly or indirectly, by or for the individual's spouse or children.

ii) In the case of a partnership, "ownership interest"

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includes any interest owned or exercised, directly or indirectly, by or for any general partner, and the partnership is considered to be owned by all of its general partners.

iii) In the case of a limited liability company, "ownership interest" includes any interest owned, directly or indirectly, by or for any member or partner, and the limited liability company is considered to be owned by all of its members or partners.

iv) In the case of an estate, "ownership interest" includes any interest owned or exercised, directly or indirectly, by any beneficiary, and the estate is considered to be owned by all of its beneficiaries.

v) In the case of a trust, "ownership interest" includes any interest owned or exercised, directly or indirectly, by any beneficiary, and the trust is considered to be owned by all of its beneficiaries.

vi) In the case of a corporation, "ownership interest" includes any interest owned, directly or indirectly, by or for any principal shareholder, member, director or officer, and the corporation is considered to be owned by its principal shareholders, members, directors and officers.

D) "Principal shareholder" means

i) In the case of a corporation having 30 or more shareholders, a person who, directly or indirectly, beneficially owns, holds or has the power to vote 5% or more of any class of securities issued by the corporation.

ii) In the case of a corporation having fewer than 30 shareholders, a person who, directly or indirectly, beneficially owns, holds or has the power to vote 50% or more of any class of securities issued by the corporation, or any member of any group of five or fewer shareholders which, directly or indirectly, beneficially own, hold or have the power to vote 80% or more of any class of securities issued by the corporation.

E) If any person or entity owns any option to acquire stock, such stock shall be considered to be owned by such person or entity.

3) Examples of facilities owned or operated by the applicant:

A) The applicant, Partnership ABC, owns 60 percent of the shares of Corporation XYZ which manages the Good Care Nursing Home under a management agreement. The applicant, Partnership ABC, owns or operates Good Care Nursing Home.

B) The applicant, Healthy Hospital, a corporation, is a subsidiary of Universal Health, the parent corporation of

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Healthcenter ASTC, its wholly-owned subsidiary. The applicant, Healthy Hospital, owns and operates Healthcenter ASTC.

- C) Dr. Wellcare is the applicant. His wife is the director of a corporation which owns a hospital. The applicant, Dr. Wellcare, owns and operates the hospital.
- D) Drs. Faith, Hope and Charity own 40%, 35%, and 10%, respectively, of the shares of Healthfair, Inc., a corporation, which is the applicant. Dr. Charity owns 4% and Drs. Well and Care each own 25% of the shares of XYZ Nursing Home, Inc. The applicant, Healthfair, Inc., owns and operates XYZ Nursing Home, Inc.

4) Documentation to be submitted shall include:

- A) a listing of all health care facilities owned or operated by the applicant, including licensing, certification and accreditation identification numbers, if applicable;
- B) proof of current licensure and, if applicable, certification and accreditation of all health care facilities owned or operated by the applicant;
- C) a certification from the applicant listing any adverse action taken against any facility owned or operated by the applicant during the three (3) years prior to the filing of the application;

- D) authorizations permitting the State Board and Agency access to information in order to verify any documentation or information submitted in response to the requirements of this subsection or to obtain any additional documentation or information which the State Board or Agency finds pertinent to this subsection. Failure to provide such authorization shall constitute an abandonment or withdrawal of the application without any further action by the State Board.

- 5) In addition to documentation submitted by the applicant, the State Board and Agency shall review the official records of the State Agency, other state agencies, and, where applicable, those of any other states, respecting licensure and certification, and shall review the records of nationally recognized accreditation organizations to determine compliance with the requirements of this subsection.

- e) Alternatives to the Proposed Project--Review Criterion. The applicant must document that the proposed project is the most effective or least costly alternative. Documentation shall consist of a comparison of the proposed project to alternative options. Such a comparison must address issues of cost, patient access and financial benefits in both the short and long-term. Alternatives must include, but are not limited to: purchase of equipment, leasing or utilization (by contract or agreement) of other facilities, development of freestanding settings for service and alternate settings within the facility.

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f) Need For the Project--Review Criterion. The project must be needed.

- 1) If the State Board has determined need pursuant to Part 1100, the proposed project shall not exceed additional need determined unless the applicant meets the criterion for a variance.
- 2) If the State Board has not determined need pursuant to Part 1100, the applicant must document that it will serve a population group in need of the services proposed and that insufficient service exists to meet the need. Documentation shall include but not be limited to:

- A) area market studies (which evaluate population trends and service use factors);
- B) calculation of need based upon models of estimating need for the service (all assumptions of the model and mathematical calculations must be included);

- C) historical high utilization of other area providers; and
- D) identification of individuals likely to use the project.

g) Size of Project--Review Criterion. The applicant must document that the size of a proposed project is appropriate.

- 1) The proposed project cannot exceed the norms for project size found in Appendix B of this Part unless the additional square footage beyond the norm can be justified by one of the following:

- A) the proposed project requires additional space due to the scope of services provided;

- B) the proposed project involves an existing facility where the facility design places impediments on the architectural design of the proposed project;

- C) the proposed project involves the conversion of existing bed space and the excess square footage results from that conversion; or

- D) the proposed project includes the addition of beds and the historical demand over the last five year period for private rooms has generated a need for conversion of multiple bed rooms to private usage.

- 2) When the State Board has established utilization targets for the beds or services proposed, the applicant must document that in the second year of operation the annual utilization of the beds or service will meet or exceed the target utilization. Documentation shall include, but not be limited to, historical utilization trends, population growth, expansion of professional staff or programs (demonstrated by signed contracts with additional physicians) and the provision of new procedures which would increase utilization.

h) Medical Education--Review Criterion

- 1) If the project proposed is designed to meet the health education or related research needs of the facility, the applicant must document the following:

- A) the proposed project would assist the facility in meeting its research or educational needs for related residency

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programs. Documentation must indicate that accreditation would be lost without the proposed project and that current space is insufficient to meet projected teaching needs;

- B) the proposed project will not have an adverse impact on community facilities within the planning area and that such community facilities support the project. Documentation shall consist of letters from non-teaching community hospitals in the planning area indicating support for the project or indicating that the proposal will have no adverse impact on the utilization of their services;

- C) how the proposed project compares in function and design to similar programs in other teaching hospitals in Illinois and nationally. Documentation shall consist of detailed comparisons of volume requirements and square footage needs in similar institutions both in Illinois and nationally; and

- D) the facility is unable to meet its teaching or related research needs through the use of existing resources. Documentation shall consist of: statements concerning the inability to utilize vacant or under utilized areas of the applicant facility; and statements detailing any prohibitive reasons for not utilizing space in other facilities to provide the proposed project.

- 2) This criterion shall not be the sole basis for approval of a project and cannot be used to justify the creation of a new health care facility.

(Source: Emergency amendment at 19 Ill. Reg. **7981**, effective May 31, 1995, for a maximum of 150 days)

SUBPART O: CATEGORY OF SERVICE REVIEW CRITERIA--CHRONIC RENAL DIALYSIS

Section 1110.1430 Chronic Renal Dialysis - Review Criteria

EMERGENCY

- a) Data System - Review Criterion. The applicant must document that a chronic renal dialysis data system exists or will be established.

- b) Minimum Size of Renal Dialysis Center or Renal Dialysis Facilities - Review Criterion. The minimum facility size is:

- 1) three dialysis stations within the facility in areas not included in an MSA or in an MSA of less than 500,000 people;

- 2) six dialysis stations in MSA's of over 500,000 population.

- c) Access Variance to Need--Review Criterion

- 1) The applicant must document that access to the proposed service is restricted in the planning area as documented by:

- A) all existing renal dialysis facilities are operating at full utilization as reflected in three patient shifts per day; or

- B) renal dialysis facilities are not available to 90 percent of the population of the planning area within 45 minutes travel

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time and the proposed project will meet that need.

- 2) Documentation shall consist of location and historical utilization of other planning area service providers; patient location information, all applicable time-travel studies and a certification of waiting times or scheduling problems in existing facilities.

- 3) The applicant must also document that the number of patients who are experiencing an access problem will justify the proposed project at the minimum utilization level detailed in 77 Ill. Adm. Code 1100.

- d) Establishment of Facilities--Review Criterion. It is the policy of the State Board that no new renal dialysis center or facility be established in a planning area unless:

- 1) All existing renal dialysis centers or facilities within the planning area are operating at or above the minimum utilization for such facilities as detailed in 77 Ill. Adm. Code 1100.630; and or

- 2) There is a calculated need for additional stations in the planning area. The planning area--is currently underserved by existing renal dialysis centers or facilities as demonstrated--by a--calculated--need--for--additional--stations. The need for treatment stations will be based upon the need figures shown in the update to the Inventory of Health Care Facilities in effect at the time of State Board consideration; and can--be--estimated utilizing the formula reflected in 77-III--Adm--Code--1100.630--for the determination of station need.

- 3) The applicant documents that the proposed new facility will improve access to care by demonstrating that services are not available within 30 minutes travel time of the proposed facility; or

- 4) The applicant documents conformance with the variance detailed in subsection (c) of this Section.

- e) Location - Review Criterion. The applicant must document that the location of the proposed project is accessible. Documentation shall consist of a narrative relating the proposed location to public transportation, other providers and to the population to be served. It also must include floor plans of the facility and the protocols for evacuation of the residents in an emergency such as a fire.

- f) Support Services - Review Criterion. The applicant must document that clinical and pathological laboratory services, blood bank, nutrition, rehabilitation, psychiatric and social services, and self-care dialysis support services, will be available. Documentation shall consist of a narrative as to how such services will be provided.

- g) Affiliation Agreements - Review Criterion. The applicant must document that a written affiliation agreement or arrangement is in effect for the provision of inpatient care and other hospital services. Documentation shall consist of copies of all such agreements.

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h) Self-Care and Home Dialysis Training--Review Criterion. The applicant must document that self-care dialysis, self-care instruction, home dialysis and home training will be provided at the applicant facility or that a written agreement with another facility for the provision of these services exists. Documentation shall consist of a certification that services are provided by the applicant or copies of all agreements for provision of such services.

i) Relocation of Facilities--Review Criterion. This criterion may only be used to justify the relocation of a facility from one location in the planning area to another in the same planning area and may not be used to justify any additional stations. Compliance with this review criterion eliminates the need to address the review criteria in subsections (c) and (d) of this Section. The applicant must document the following:

- 1) that the existing facility has met the occupancy targets detailed in 77 Ill. Adm. Code 1100.630 for each of the last 12 months;
- 2) that the proposed facility will improve access for care to the existing patient population; and
- 3) that the existing facility needs to be replaced, as documented by the applicant, in order to comply with Section 1110.420(b).

j) Addition of Stations--Review Criterion. This criterion applies to an existing facility which proposes the addition of stations at the existing site. The applicant must document the following:

- 1) that the existing facility has met the occupancy targets set forth in 77 Ill. Adm. Code 1100.630 for each of the last 12 months; and
- 2) that there are sufficient additional patients in need of the service to insure that the facility will meet the occupancy targets set forth in 77 Ill. Adm. Code 1100.630 for each of the last 12 months and by the end of the first full year of operation; and
- 3) that the proposed project will not adversely impact the workload at any other existing facility within 30 minutes travel time of the applicant facility; and
- 4) that a need for additional stations exists in the planning area based upon the update to the Inventory of Health Care Facilities in effect at the time of State Board consideration; or
- 5) that the proposed project is in conformance with the access variance set forth in subsection (c) of this Section.

(Source: Emergency amendment at 19 Ill. Reg. **7981**, effective May 31, 1995, for a maximum of 150 days)

SUBPART R: CATEGORY OF SERVICE REVIEW CRITERIA--
GENERAL LONG-TERM CARE

Section 1110.1730 General Long-Term Care--Review Criteria
EMERGENCY

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a) Facility Size -- Review Criterion. The maximum size of a general long-term care facility is 250 beds, unless the applicant documents that a larger facility would provide personalization of patient care and documents provision of quality care based on the experience of the applicant and compliance with the Agency's licensure standards (77 Ill. Adm. Code: Chapter I, Subchapter c) (Long-term Care Facilities) over a 2 year period of time.

b) Community Related Functions -- Review Criterion. The applicant must document

cooperation with and the receipt of the endorsement of community groups in the town or municipality where the facility is or is proposed to be located, such as, but not limited to, social, economic or governmental organizations or other concerned parties or groups. Documentation shall consist of copies of all letters of support from such organizations.

c) Zoning--Review Criterion. The applicant must document one of the following:

- 1) the property to be utilized has been zoned for the type of facility to be developed;
 - 2) zoning approval has been received; or
 - 3) a variance in zoning for the project is to be sought.
- d) Variances to Computed Bed Need -- Review Criterion

1) Defined Population Variance.

A) The applicant must document that the proposed project will service a defined population group of a religious, fraternal or ethnic nature from throughout the entire health service area or from a larger geographic area (hereinafter referred to as the GA) proposed to be served and which includes, at a minimum, the entire health service area in which the facility is or will be physically located. Documentation shall consist of one of the following:

- i) a description of the proposed religious, fraternal or ethnic group proposed to be served;
- ii) the boundaries of the GA; and
- iii) the population of the defined population which lives within the proposed GA, including the source of the population figures.

B) In addition, the applicant must document each of the following:

- i) the proposed services do not exist in the health service-area GA where the facility is or will be located; and
- ii) the services cannot be instituted at existing facilities within the health-service-area GA in sufficient number to accommodate the group's needs. The applicant must enumerate each specific service the proposed facility will provide which could not be provided in any of the existing facilities in the GA

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and the basis for determining why such service could not be provided.

C) The application must document that the proposed number of beds is needed based upon the target occupancy rate. Documentation shall consist of an identification of the defined population volume; the patient origin of the proposed patients; and a rationale for the utilization projections. Documentation shall consist of verification that the proposed project will achieve, within the first year of operation, an annual occupancy in excess of the target occupancy.

D) The applicant must document that at least 85 percent of the residents of the facility who will be seeking the facility's services are members of the defined population group. Documentation shall consist of a written admission policy which insures that the requirements of this subsection will be met and an identification of the defined population volume and location and rationale for utilization projections.

E) The applicant must document that the proposed project is either directly owned, sponsored or affiliated with the religious, fraternal or ethnic group that has been defined as the population to be served by the project. The applicant must provide legally-binding documents which prove ownership, sponsorship or affiliation.

F) The applicant must document that the proposed facility will include beds in both the Nursing Category of Service and either the Sheltered Care Category of Service or residential living arrangements which are not licensed by the Agency. Documentation shall consist of a certification of the proposed bed mix.

2) Accessibility Variance

A) The applicant must document that access to the proposed service is restricted in the planning area as documented by:
i) the absence of beds within the planning area; or
ii) limitations on governmentally-funded or charity patients; or
iii) restrictive admission policies of existing area providers.

B) Documentation shall consist of location and utilization of other planning area service providers and a certification of waiting times and scheduling or admission restrictions that exist in area providers.

C) The applicant must also document that the number of beds proposed will not exceed the number needed to meet the health care needs of the population identified as having restricted access at the target occupancy rate.

3) Acute Care Conversion Variance

A) The applicant must document a shortage of long-term care

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beds in the planning area or a shortage of Medicare certified beds in the area because:

i) A Diagnosis-Related Group (DRG)-extended stay case load exists at the applicant facility that cannot be referred to existing facilities because of a bed shortage; or

ii) a large number of long-term care patients with medical conditions which require a combination of acute and chronic care receive care at the applicant institution.

B) Documentation shall include:
- a summary of patient diagnosis and condition at the time of long-term care placement;
- a statement as to the number of patients who have been maintained in the hospital beyond DRG reimbursement limitations (see 42 CFR 419.90);
- statements by physicians as to the need to maintain DRG extended stay patients in a hospital rather than nursing home setting; and
- waiting lists in existing skilled long-term care providers.

C) The applicant must document that the proposed number of beds will achieve, within the first year of operation, an average occupancy of 90 percent.

2) Continuum of Care Variance

A) The applicant must document that the project will provide a continuum of care for a geriatric population which includes independent living and/or congregate housing (such as unlicensed apartments, high rises for the elderly, and retirement villages) and related health and social services. Such housing complex must be on the same site as the health facility component of the project. Such a proposal must be for the purposes of and serve only the residents of the housing complex and may be developed in one of the following ways:

i) The proposal may be developed after the housing complex has been established; or
ii) The proposal may be developed as a part of a total housing construction program, provided that, the entire complex is one inseparable project and that there is a documented demand for the housing and that the licensed beds will not be built first, but will be built concurrently with or after the residential units.

B) The applicant must also document the following:

i) That the proposed number of beds are needed. Documentation shall consist of a list of available patients/residents needing the proposed project. The proposed number of beds may not exceed one licensed long-term care bed for every five four apartments or

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independent living units; and
 that the proposed general long-term care facility will
 include beds in both the Nursing Category of Service
 and the Sheltered Care Category of Service in a ratio
 not to exceed 2 Nursing Care beds to every Sheltered
 Care bed; and
 ill) That its written policies of operation provide that
 if a resident of the retirement community is
 transferred to the long-term care unit, the resident
 will not lose his or her apartment unit or be
 transferred to another long-term care facility solely
 because of the resident's altered financial status or
 medical indigency.

(Source: Emergency amendment at 19 Ill. Reg. 7981, effective May
 31, 1995, for a maximum of 150 days)

ILLINOIS RACING BOARD

NOTICE OF EMERGENCY RULES

- 1) Heading of the Part: Interstate Common Pools
- 2) Code Citation: 11 Ill. Adm. Code 302
- 3) Section Numbers:

	<u>Emergency Action:</u>
302.10	New Section
302.20	New Section
302.30	New Section
- 4) Statutory Authority: 230 ILCS 5
- 5) Effective date of amendments: June 5, 1995
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: Emergency will expire upon adoption of rules after the normal rulemaking process.
- 7) Date filed in agency' principal office: June 2, 1995
- 8) Reason for the emergency: HB2108 establishes full card simulcasting for organization licensees. HB2108 was signed by the Governor on Tuesday, May 30, 1995 and is effective immediately. These rules establish procedures to be followed by organization licensees for simulcast programs and commingled pools.
- 9) A complete description of the subjects and issues involved: These rules outline duties and requirements of the organization licensee for full card simulcasting and commingling of pari-mutuel pools.
- 10) Are there any other proposed amendments pending in this Part? No
- 11) Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.
- 12) Information and questions regarding this emergency shall be directed to:
 Gina DiCaro, Illinois Racing Board, Legal Department, 100 West Randolph,
 Ste. 11-100, Chicago, Illinois 60601, (312) 814-2600.

The full text of the emergency rules begin on the next page:

ILLINOIS RACING BOARD

NOTICE OF EMERGENCY RULES

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY

SUBTITLE B: HORSE RACING

CHAPTER I: ILLINOIS RACING BOARD

SUBCHAPTER a: GENERAL RULES

PART 302

INTERSTATE COMMON POOLS

Section

302.10 General

EMERGENCY

302.20 Illinois as the Guest State

EMERGENCY

302.30 Illinois as Host Track

EMERGENCY

AUTHORITY: Implementing and authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Emergency adoption at 19 Ill. Reg. **8002**, effective June 5, 1995, for a maximum of 150 days.

Section 302.10 General

EMERGENCY

- a) All executed contracts governing participation in interstate common pools shall be submitted to the Board.
- b) Individual wagering transactions are made at the point of sale in the state where placed. Pari-mutuel pools are combined for computing odds and calculating payoffs but will be held separately for auditing and all other purposes.
- c) Any surcharges or withholding in addition to the takeout shall only be applied in the jurisdiction imposing such surcharges or withholdings.

Section 302.20 Illinois as the Guest State

EMERGENCY

- a) Pari-mutuel wagering pools may be combined with corresponding wagering pools in the host state, or with corresponding pools established by one or more other jurisdictions.
- b) In the event that an organization licensee commingles Illinois pools with the pools of an out-of-state host track, all Illinois pool data shall be transmitted by the organization licensee as one pool irrespective of the number of totalizator services involved.

ILLINOIS RACING BOARD

NOTICE OF EMERGENCY RULES

- c) In the event that an organization licensee commingles Illinois pools with the pools of an out-of-state host track, all rules in effect in the host state shall apply.
- d) In the event that an organization licensee commingles Illinois pools with the pools of an out-of-state host track, if for any reason it becomes impossible to successfully merge all Illinois wagers into the interstate common pool, the organization licensee shall calculate prices and make payoffs based on Illinois handle rather than issuing refunds or making payoffs based on the sending racetrack's prices. All Illinois licensees shall publish a copy of this subsection in its official program.
- e) In the event that an organization licensee commingles Illinois pools with the pools of an out-of-state host track, where takeout rates in the common pool are not identical to the takeout rate applicable in Illinois, the Illinois organization licensee may adopt the takeout rate of the sending state or utilize the net price calculation method.
- f) An interstate commission fee shall exceed 5% only for Grade I thoroughbred races and only for harness races with purses exceeding \$200,000.
- g) All Illinois licensees shall provide the Board with pari-mutuel data by way of electronic transmission in a Board prescribed format.

Section 302.30 Illinois as Host Track

EMERGENCY

- a) With the approval of the Board, an organization licensee may offer one or more of its pari-mutuel races to guest facilities in other states and participate in a common pool.
- b) Where takeout rates in the common pool are not identical, the net price calculation may be utilized.
- c) Illinois pari-mutuel rules shall apply.
- d) If for any reason it becomes impossible to successfully merge pool data into the interstate common pool of the organization licensee, or a Board representative determines that attempting to effect transfer of pool data from the guest state may endanger the organization licensee's wagering pool or cause an unreasonable delay of the racing program, the Board's pari-mutuel auditor shall determine under the circumstances whether to manually merge guest pools, exclude guest pools or delay the Illinois program.

ILLINOIS RACING BOARD
NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Medication
- 2) Code Citation: 11 Ill. Adm. Code 509
- 3) Section Numbers
509.95 Amendment
- 4) Statutory Authority: 230 ILCS 5/36a
- 5) Effective date of amendments: June 5, 1995
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: Emergency will expire upon adoption of amendment after normal rulemaking process.
- 7) Date filed in agency' principal office: June 2, 1995
- 8) Reason for the emergency: HB2108 removed the standards set for the administration of furosemide and the procedures to be followed when a horse is placed on or removed from the bleeder list. HB2108 was signed by the Governor on Tuesday, May 30, 1995 and is effective immediately. This emergency amendment adds previous statutory language. Current Board rules establish standards for administration and procedures for furosemide.
- 9) A complete description of the subjects and issues involved: This emergency amendment adds prior language from the statute which outlines the Board's authority to establish standards for procedures and administration of Lasix.
- 10) Are there any other proposed amendments pending in this Part? No
- 11) Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.
- 12) Information and questions regarding this emergency shall be directed to:
Gina DiCaro, Illinois Racing Board, Legal Department, 100 West Randolph, Ste. 11-100, Chicago, Illinois 60601, (312) 814-2600.

The full text of the emergency amendments begins on the next page:

ILLINOIS RACING BOARD

NOTICE OF EMERGENCY AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER c: RULES APPLICABLE TO ALL OCCUPATION LICENSEES

PART 509
MEDICATION

Section	Purpose
509.10	Definitions
509.20	Racing Soundness Exam
509.30	Foreign Substance Banned
509.40	Twenty-four Hour Ban
509.50	Unlawful Administration
509.60	Knowing Entry of Medicated Horse Prohibited
509.70	Pharmaceutical Aids Banned
509.75	Additions to Permitted List
509.80	Permitted Use of Foreign Substances: Threshold Levels
509.90	Furosemide
509.95	EMERGENCY
509.100	Possession of Needles and Injectables Prohibited
509.110	Prescription Items - Animal Use
509.120	Possession of Drugs and Chemicals
509.130	Human Use of Substances and Hypodermic Syringes or Needles (Repealed)
509.140	Detention Barn
509.150	Test Samples
509.160	Referee Samples
509.170	Laboratory Reports and Findings
509.175	Laboratory Reports and Findings with Respect to Test Samples for Pre-Race Testing (Repealed)
509.180	Distribution of Purses
509.190	Procedures, Purses, Retention of Samples
509.195	Stewards Action on Laboratory Reports Under Pre-Race Testing (Repealed)
509.200	Trainer Responsibility
509.210	Prima Facie Evidence
509.220	Bleeders (Repealed)
509.230	Post Mortems
509.240	Penalties - Violation (Repealed)
509.250	Penalties - Failure to Guard Cases (Repealed)
509.260	Penalties - Violation of Excessive Use of Phenylbutazone (Repealed)
509.265	Penalties - Violations of Pharmaceutical Aids (Repealed)
509.270	Other Penalties
509.280	Veterinarian's Records
509.290	Offenses Occurring Prior to the Effective Date of the Rules

AUTHORITY: Implementing and authorized by the Illinois Horse Racing Act of

ILLINOIS RACING BOARD

NOTICE OF EMERGENCY AMENDMENTS

1975 [230 ILCS 5].

SOURCE: Adopted at 5 Ill. Reg. 4599, effective April 17, 1981; codified at 5 Ill. Reg. 10908; amended at 7 Ill. Reg. 1429, effective January 24, 1983; amended at 7 Ill. Reg. 15869, effective November 10, 1983; emergency amendment at 7 Ill. Reg. 16191, effective November 28, 1983, for a maximum of 150 days; amended at 8 Ill. Reg. 6094, effective April 19, 1984; amended at 8 Ill. Reg. 7002, effective May 7, 1984; amended at 11 Ill. Reg. 14424, effective August 14, 1987; amended at 11 Ill. Reg. 15492, effective September 3, 1987; amended at 14 Ill. Reg. 8186, effective May 15, 1990; amended at 14 Ill. Reg. 20045, effective December 4, 1990; amended at 15 Ill. Reg. 11989, effective August 12, 1991; amended at 17 Ill. Reg. 3649, effective March 4, 1993; amended at 18 Ill. Reg. 2095, effective January 21, 1994; emergency amendment at 18 Ill. Reg. 6019, effective April 1, 1994, for a maximum of 150 days; emergency modified at 18 Ill. Reg. 9654; amended at 18 Ill. Reg. 7428, effective May 8, 1994; amended at 18 Ill. Reg. 15446, effective September 30, 1994; amended at 19 Ill. Reg. 2466, effective February 15, 1995; emergency amendment at 19 Ill. Reg. **8005**, effective June 5, 1995, for a maximum of 150 days.

Section 509.95 Furosemide EMERGENCY

- a) It is recognized that there are horses which exhibit symptoms of epistaxis or respiratory tract hemorrhage which with proper treatment are sound and able to compete in races. A horse, which during the race or following the race, or during exercise or following such exercise, is found to be shedding blood from one or both nostrils or is found to have bled internally, is eligible to be placed on a bleeder list and treated on race day to prevent bleeding during its race. In order to obtain authorization for race day treatment of the bleeder, the horse trainer or veterinarian must obtain a certificate of examination from one of the State veterinarians or other documentation, as prescribed in this Section, and have the horse placed on the official bleeder list. One of the State veterinarians must, by examination or in consultation with the practicing veterinarian, establish that the horse did in fact shed free blood from one or both nostrils or that an endoscopic examination of the horse showed observable amounts of free blood in the respiratory tract. When confirmed by one of the State veterinarians, the horse, regardless of age, shall be placed on the bleeder list which shall be maintained by one of the State veterinarians. Once on the list, a horse shall be removed from the bleeder list only upon the direction of one of the State veterinarians, who must certify in writing to the Board his recommendation for removal of the horse from the list.
- b) Once a horse is placed on the bleeder list, that horse must be assigned to a stall in a facility designated by the Board as a security area, at a time to be determined by the Board prior to the scheduled post time for any race in which it is entered. The security stall shall be assigned by the Racing Secretary. Once placed in the

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security stall, a horse must remain there until it is taken to the paddock to be saddled or harnessed for the race, except that the stewards may permit horses to leave the security stall to engage in exercise blow-outs or warm-up heats.

- c) Horses on the official bleeder list must be treated at least 4 hours prior to post time with furosemide (Lasix) or other approved bleeder medication. Bleeder medication must be administered in the manner and at a dosage levels of 250 mg permitted by the Board. The bleeder medication is to be administered by the practicing veterinarian, and may be witnessed by one of the State veterinarians or his designee.
- d) If directed by a Board representative, immediately prior to treatment and as a condition for approval, the horse trainer must direct the practicing veterinarian to, in the presence of a uniformed security guard, take a blood sample from the horse in the presence of a Board representative, which may be delivered to the Board's testing laboratory for analysis.
- e) Any horse on the bleeder list which is not stabled on the actual grounds of the racing facility where it is to race, and which is stabled off the grounds at an auxiliary stabling area or at some other approved location, must be brought on to the grounds of the racing facility where it is scheduled to compete at least 6 hours prior to the post time for the race for which it is entered unless one of the State veterinarians authorizes a later arrival. Such a horse arriving at the racing facility will be placed in a security stall assigned by the Racing Secretary.
- f) Security Area
- 1) Every horse entered to race shall be placed in a security area as designated by the Board. The Board, in designating a security area, shall not require that a horse be placed in a barn or stall other than the barn or stall assigned to that horse by the racing secretary. The barn or stall shall be posted as a security area. The trainer of record shall be responsible for the security of the horse and barn or stall area. The security area shall be under the supervision of the Illinois Racing Board.
 - 2) No unauthorized person shall approach the security area. If any unauthorized person does approach the security area, a report of the incident is to be made immediately to one of the State veterinarians, the stewards, or a board investigator.
- g) The provisions of this Section and the treatment authorized herein shall apply to and be available only for horses entered in and competing in race meetings as defined in Section 3.07 of the Act [230 ILCS 5/3.7].
- h) Procedure
- 1) If the state or association veterinarian determines that a horse is a bleeder, he shall issue a certificate of examination and enter the horse's name and tattoo number on the bleeder list. The trainer shall affix the certificate of examination to the horse's foal papers or eligibility papers. A trainer who plans

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to race a bleeder shall indicate on the entry form that the horse races with furosemide.

- 2) The state veterinarian or his designee shall authorize a horse which has bled in another state to race on furosemide upon presentation by the trainer of:
 - A) written certification from a state or association veterinarian in another state that a properly identified horse has bled in that state; or
 - B) publication in the official charts that the named horse bled following a race at a race track in that state.

- 3) If the certification described in subsection (a)(2)(A) above is not available at the time the named horse is entered to race:
 - A) the stewards may allow the horse to race as a bleeder in that one race in which it is entered only.
 - B) within ten days after the race, the trainer of the horse shall produce for the stewards or their designee written certification from a state that the horse has bled in that state, or a statement in an official chart that the named horse bled following a race in that state.
 - C) any purse earned by the horse in the race shall be held during the ten day period.
 - D) if the trainer fails to produce the certification described in subsection (a)(3)(B) above, the stewards shall impose a fine and/or suspend the trainer's license and shall redistribute the amount of any purse earned by the horse.

- 4) If a horse has been denominated a bleeder, it shall remain on the bleeder list and be administered furosemide prior to its races regardless of change of owner or trainer. Once on the bleeder list a horse shall be removed from the list only upon the direction of the state veterinarian who shall certify in writing to the Board his recommendation for removal of the horse from the list.

1) b) Administration

- 1) If a horse has been placed on the bleeder list, it shall be brought to a facility for lasix administration not less than four hours and 15 minutes prior to post time of the race in which it is entered. The facility for lasix administration shall be provided by the racing association which shall also provide security for the facility.
- 2) A licensed veterinarian shall administer 250 mg. of furosemide intravenously to the bleeder in the presence of the state veterinarian or his designee.
- 3) The trainer, or his licensed employee, shall witness the administration. Following the administration of lasix, the trainer of record or his designee shall immediately return the horse to its assigned stall and shall remain with the horse and provide constant surveillance in accordance with 11 Ill. Adm. Code 436.05(c).

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1) c) Bleeders

- 1) The bleeder list for the race meeting shall be posted in the racing secretary's office and in the state veterinarian's office at each race meeting.
- 2) The first time a horse bleeds, it shall be ineligible to race for 19 days irrespective of the date of entry.
- 3) A horse which bleeds for the second time in any 12-month period shall be barred from racing in Illinois for a minimum of 60 days.
- 4) A horse which bleeds for the third time in any 12-month period shall be barred from racing in Illinois for a minimum of 120 days.
- 5) After the expiration of any of the above-mentioned periods, no horse may again start until it has been approved by the state veterinarian.
- 6) The rules contained in this Section shall also apply to horses shipped in from other racing jurisdictions which have established different time restrictions.

(Source: Emergency amendment at 19 Ill. Reg. **8005** effective June 5, 1995, for a maximum of 150 days)

ILLINOIS RACING BOARD
NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Procedures for License Hearings
- 2) Code Citation: 11 Ill. Adm. Code 205
- 3) Section Numbers:
205.100 Emergency Action:
Amendment
205.120 Amendment
205.140 New Section
205.150 New Section
- 4) Statutory Authority: 230 ILCS 5
- 5) Effective date of amendments: June 5, 1995
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: Emergency will expire upon adoption of rules after regular rulemaking process.
- 7) Date filed in agency' principal office: June 2, 1995
- 8) Reason for the emergency: On Tuesday, May 30, 1995 Governor Edgar signed HB2108 which, in part, expanded the authority of the Board during hearings for racing dates. The 1996 racing dates hearing will take place in September of this year, and rules (through the regular rulemaking process) would not be in effect.
- 9) A complete description of the subjects and issues involved: These rules establish the right of the Board to limit the time allotted to participants during cross-examination of witnesses, allow ex parte communications, and establish acceptance of racing dates by applicants with provisions for emergency hearings to re-award dates.
- 10) Are there any other proposed amendments pending in this Part? No
- 11) Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.
- 12) Information and questions regarding this emergency shall be directed to:
Gina DiCaro, Illinois Racing Board, Legal Department, 100 West Randolph, Ste. 11-100, Chicago, Illinois 60601, (312)814-2600.

The full text of the emergency amendments begins on the next page:

ILLINOIS RACING BOARD
NOTICE OF EMERGENCY AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER a: GENERAL RULES

PART 205
PROCEDURES FOR LICENSE HEARINGS

Section	Purpose
205.10	Notice
205.20	Filing of Applications
205.30	Use of Applications
205.40	Filing of Evidence Supporting Applications
205.50	Parties
205.60	Service of Application and Evidence Supporting Application
205.70	Pre-Hearing Conference
205.80	Filing of Responsive Evidence & Motions
205.90	Licensing Hearing
205.100	EMERGENCY
205.110	Disqualification of Hearing Officer
205.120	Ex Parte Communications
EMERGENCY	
205.130	Incorporation of Part 204
205.140	Acceptance by Applicants
EMERGENCY	
205.150	Emergency Hearing to Re-award Dates
EMERGENCY	

AUTHORITY: Authorized and implemented pursuant to the Illinois Horse Racing Act of 1975 [230 ILCS 5].

SOURCE: Emergency adoption at 16 Ill. Reg. 16318, effective October 6, 1992, for a maximum of 150 days; emergency expired March 5, 1993; emergency rule adopted at 17 Ill. Reg. 6859, effective April 16, 1993, for a maximum of 150 days; adopted at 17 Ill. Reg. 13615, effective July 30, 1993; emergency amendment at 19 Ill. Reg. **8011**, effective June 5, 1995, for a maximum of 150 days.

Section 205.100 Licensing Hearing

EMERGENCY

- a) The License Hearing shall commence on September 7 (or, if September 7 is not a business day, the next business day thereafter).
- b) The members of the Racing Board or hearing officer presiding over the Licensing Hearing shall decide all evidentiary objections raised at the Licensing Hearing, subject to de novo review by the Board of the ruling of any hearing officer the Board may appoint, at the request of

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any party. Any evidence ruled inadmissible may be submitted as an offer of proof.

- c) Each party shall, in alphabetical order, offer into evidence the prefilled written testimony and exhibits of each witness whose testimony it has filed in support of its application. Each such witness will then be subject to oral, cross and redirect examination by all parties according to the rules of evidence applicable for cross and redirect examination in the Circuit Court of Cook County, Illinois for non-jury trials and as provided in Section 10-40 of the Illinois Administrative Procedure Act [5 ILCS 100/10-40]. Thereafter, each party shall, in the same order, offer into evidence the prefilled written testimony and exhibits of each witness whose written testimony and exhibits it has filed in response to another party's application or supporting evidence. Each such witness will then be subject to oral, cross and redirect examination by all parties according to the rules of evidence applicable for cross and redirect examination in the Circuit Court of Cook County, Illinois for non-jury trials and as provided in Section 10-40 of the Illinois Administrative Procedure Act [5 ILCS 100/10-40].

- d) The Board or hearing officer may limit the time allotted to a participant for cross-examination, if the cross-examination of witnesses would unduly obstruct the timely award of an organization license.

(Source: Emergency amendment at 19 Ill. Reg. 8011, effective June 5, 1995, for a maximum of 150 days)

Section 205.120 Ex Parte Communications

EMERGENCY

This rule expressly adopts the applicable provision of the IAPA, Section 10-60, regarding ex parte communications. Section 10-60 includes provisions that:

- a) After notice of a hearing in a contested case such as the Licensing Hearing, agency heads, agency employees and hearing officers shall not communicate, directly or indirectly, in connection with any issue of fact, with any person or party, or in connection with any other issue with any party or the representative of any party, except upon notice and opportunity for all parties to participate;
- b) a Board Member may, however, communicate with other members of the Board, and a Board Member or hearing officer may have the advice of one or more "personal assistants." To avoid any appearance of impropriety, however, the Board and the hearing officer shall utilize "personal assistants" who have no other involvement or participation in the Licensing Hearing. For purposes of this Section, a "personal assistant" shall not be deemed to be subject to a disqualifying involvement or participation in the Licensing Hearing if the "personal assistant" has observed the proceedings, reviewed testimony or exhibits for the purpose of advising a Board Member or the hearing

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officer.

- c) Pursuant to Section 20(e-10) of the Act [230 ILCS 5/20(e-10)], ex parte communication shall be allowed provided that such communications are in the best interest of racing and made part of the record of the licensing hearing.

(Source: Emergency amendment at 19 Ill. Reg. 8011, effective June 5, 1995, for a maximum of 150 days)

Section 205.140 Acceptance by Applicants
EMERGENCY

- a) The Board shall issue letters of acceptance to successful applicants for racing dates no later than 5 days after the award of dates. Applicants shall furnish signed acceptance letters, together with required fees, to the Board no later than 10 days after receipt of the Board's executed dates order.

- b) In the event an applicant does not submit a signed acceptance letter and/or the required fees within the time prescribed in the Act, the Board may conduct an emergency hearing, as provided in Section 205.150, and may re-award dates previously awarded to the applicant.

(Source: Emergency amendment at 19 Ill. Reg. 8011, effective June 5, 1995, for a maximum of 150 days)

Section 205.150 Emergency Hearing to Re-award Dates

EMERGENCY

- a) Pursuant to Section 20(f-5) of the Act [230 ILCS 5/20(f-5)] the Board may conduct an emergency hearing and may re-award dates if acceptance is not received from the applicant in the time prescribed in the Act or a license to conduct a race meeting has been suspended or revoked.
- b) The Board shall serve notice to all interested parties of the date of the emergency hearing and dates for filing applications and supporting documentation for the racing dates in question.
- c) A re-award of racing dates shall be based on the criteria contained in Section 20(e-5) of the Act [230 ILCS 5/20(e-5)].

(Source: Emergency amendment at 19 Ill. Reg. 8011, effective June 5, 1995, for a maximum of 150 days)

ILLINOIS DEPARTMENT OF ALCOHOLISM AND SUBSTANCE ABUSE

NOTICE OF PUBLIC INFORMATION

REIMBURSEMENT CHANGE FOR MEDICAID SUBSTANCE ABUSE SERVICES

This notice is being provided in accordance with federal requirements at 42 CFR 447.205. The Department of Alcoholism and Substance Abuse (DASA) published Notice of Proposed Amendments on March 17, 1995 (Illinois Register, Volume 19, Issue 11, pp. 3106 - 3121), regarding changes to Medicaid reimbursable Subacute Alcoholism and Substance Abuse Treatment services, 77 Ill. Adm. Code 2090. DASA has received comment on the published rules in writing and in public hearings on April 28, 1995 and May 3, 1995 (See Notice of Public Hearing in Illinois Register, Volume 19, Issue 14, p. 5346, April 7, 1995).

The above federal rule requires that DASA estimate the expected increase or decrease in annual aggregate Medicaid expenditures due to the above proposed changes. The amount of expected decrease in total statewide cost in FY'96 is \$35,400,000.00.

JOINT COMMITTEE ON ADMINISTRATIVE RULES

AGENDA

JAMES R. THOMPSON CENTER ROOM 16-503 CHICAGO, ILLINOIS 10:00 A.M. JUNE 20, 1995

NOTICES: Due to Register submittal deadlines, the Agenda below is incomplete. Other items not contained in this published Agenda are likely to be considered by the Committee at its May meeting.

It is the policy of the Committee to allow only representatives of state agencies to testify orally on any rule under consideration at Committee hearings. If members of the public wish to express their views with respect to a proposed rule, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:

Joint Committee on Administrative Rules
700 Stratton Building
Springfield, Illinois 62706

RULEMAKINGS SCHEDULED FOR JCAR REVIEW

The following rulemakings are scheduled for review at this meeting. JCAR staff may be proposing action with respect to some of these rulemakings. JCAR members may have questions concerning, and may initiate action with respect to, any item scheduled for JCAR review and any other issues within the Committee's purview.

PROPOSED RULEMAKINGSAging

Community Care Program (89 Ill Adm Code 240)

-First Notice Published: 18 Ill Reg 18153 - 12/30/94

-Expiration of Second Notice Period: 7/9/95

Alcoholism and Substance Abuse

Subacute Alcoholism and Substance Abuse Treatment Services (77 Ill Adm Code 2090)

-First Notice Published: 19 Ill Reg 3106 - 3/17/95

-Expiration of Second Notice Period: 7/14/95

Agriculture

Illinois State Fair, and DuQuoin State Fair, Non-Fair Space Rental and the General Operation of the State Fairgrounds (8 Ill Adm Code 270)

-First Notice Published: 19 Ill Reg 5894 - 4/21/95
 -Expiration of Second Notice Period: 7/19/95

Central Management Services

Pay Plan (80 Ill Adm Code 310)

-First Notice Published: 19 Ill Reg 5165 - 4/7/95
 -Expiration of Second Notice Period: 7/9/95

Children and Family Services

Reports of Child Abuse and Neglect (89 Ill Adm Code 300)
 -First Notice Published: 19 Ill Reg 3684 - 3/24/95
 -Expiration of Second Notice Period: 7/16/95

Services Delivered by the Department (89 Ill Adm Code 302)

-First Notice Published: 19 Ill Reg 3730 - 3/24/95
 -Expiration of Second Notice Period: 7/16/95

Access to and Eligibility for Child Welfare Services (89 Ill Adm Code 304)

-First Notice Published: 19 Ill Reg 3601 - 3/24/95
 -Expiration of Second Notice Period: 7/16/95

Client Service Planning (89 Ill Adm Code 305)

-First Notice Published: 19 Ill Reg 3619 - 3/24/95
 -Expiration of Second Notice Period: 7/16/95

Service Appeal Process (89 Ill Adm Code 337)

-First Notice Published: 19 Ill Reg 3719 - 3/24/95
 -Expiration of Second Notice Period: 7/16/95

Licensing Standards for Foster Family Homes (89 Ill Adm Code 402)

-First Notice Published: 19 Ill Reg 3648 - 3/24/95
 -Expiration of Second Notice Period: 7/16/95

Commerce Commission

Cost of Service (83 Ill Adm Code 791)

-First Notice Published: 18 Ill Reg 13551 - 9/9/94
 -Expiration of Second Notice Period: 7/2/95

Conservation

Sport Fishing Regulations for the Waters of Illinois (17 Ill Adm Code 810)

-First Notice Published: 19 Ill Reg 5190 - 4/7/95
 -Expiration of Second Notice Period: 7/7/95

Commercial Fishing in Lake Michigan (17 Ill Adm Code 850)

-First Notice Published: 19 Ill Reg 5180 - 4/7/95
 -Expiration of Second Notice Period: 7/7/95

Squirrel Hunting (17 Ill Adm Code 690)

-First Notice Published: 19 Ill Reg 5374 - 4/14/95
 -Expiration of Second Notice Period: 7/16/95

Dove Hunting (17 Ill Adm Code 730)

-First Notice Published: 19 Ill Reg 5356 - 4/14/95
 -Expiration of Second Notice Period: 7/16/95

Environmental Protection Agency

Annual Testing Fees for Analytical Services (35 Ill Adm Code 691)

-First Notice Published: 19 Ill Reg 3756 - 3/24/95
 -Expiration of Second Notice Period: 7/7/95

Procedures for Issuing Solid Waste Planning and Enforcement Grants (35 Ill Adm Code 870)

-First Notice Published: 19 Ill Reg 2144 - 2/24/95
 -Expiration of Second Notice Period: 7/13/95

General Conditions of State of Illinois Grants for Nonhazardous Solid Waste Planning and Enforcement (35 Ill Adm Code 871)

-First Notice Published: 19 Ill Reg 2103 - 2/24/95
 -Expiration of Second Notice Period: 7/13/95

Insurance

Summary Document, Disclaimer and Notice (50 Ill Adm Code 3401)

-First Notice Published: 19 Ill Reg 784 - 1/27/95
 -Expiration of Second Notice Period: 6/25/95

Professional Regulation

Real Estate Appraiser Certification (68 Ill Adm Code 1455)

-First Notice Published: 19 Ill Reg 5358 - 4/14/95
 -Expiration of Second Notice Period: 7/13/95

Public Aid

Related Program Provisions (89 Ill Adm Code 117)

-First Notice Published: 19 Ill Reg 3295 - 3/17/95
 -Expiration of Second Notice Period: 7/5/95

Hospital Services (89 Ill Adm Code 148)

-First Notice Published: 19 Ill Reg 3167 - 3/17/95
 -Expiration of Second Notice Period: 7/16/95

Diagnosis Related Grouping (DRG) Prospective Payment System (PPS) (89 Ill Adm Code 149)

-First Notice Published: 19 Ill Reg 3139 - 3/17/95
 -Expiration of Second Notice Period: 7/16/95

Public HealthSkilled Nursing and Intermediate Care Facilities Code (77 Ill Adm Code 300)

-First Notice Published: 18 Ill Reg 11873 - 7/29/94
 -Expiration of Second Notice Period: 6/25/95

Sheltered Care Facilities Code (77 Ill Adm Code 330)

-First Notice Published: 18 Ill Reg 11829 - 7/29/94
 -Expiration of Second Notice Period: 6/25/95

Intermediate Care for the Developmentally Disabled Facilities Code (77 Ill Adm Code 350)

-First Notice Published: 18 Ill Reg 11714 - 7/29/94
 -Expiration of Second Notice Period: 6/25/95

Long-Term Care for Under Age 22 Facilities Code (77 Ill Adm Code 390)

-First Notice Published: 18 Ill Reg 11771 - 7/29/94
 -Expiration of Second Notice Period: 6/25/95

Heart Disease Treatment and Prevention Fund Rules (77 Ill Adm Code 980)

-First Notice Published: 19 Ill Reg 1224 - 2/10/95
 -Expiration of Second Notice Period: 7/9/95

Hemophilia Treatment Fund Rules (77 Ill Adm Code 990)

-First Notice Published: 19 Ill Reg 1234 - 2/10/95
 -Expiration of Second Notice Period: 7/9/95

Rehabilitation ServicesProgram Description (89 Ill Adm Code 676)

-First Notice Published: 19 Ill Reg 5439 - 4/14/95
 -Expiration of Second Notice Period: 7/13/95

Customer Rights and Responsibilities (89 Ill Adm Code 677)

-First Notice Published: 19 Ill Reg 5427 - 4/14/95
 -Expiration of Second Notice Period: 7/13/95

Eligibility (89 Ill Adm Code 682)

-First Notice Published: 19 Ill Reg 5431 - 4/14/95
 -Expiration of Second Notice Period: 7/13/95

Service Planning and Provision (89 Ill Adm Code 684)

-First Notice Published: 19 Ill Reg 5446 - 4/14/95
 -Expiration of Second Notice Period: 7/13/95

Secretary of StateCertificates of Title, Registration of Vehicles (92 Ill Adm Code 1010)

-First Notice Published: 19 Ill Reg 5460 - 4/14/95
 -Expiration of Second Notice Period: 7/16/95

Dealers, Wreckers, Transporters and Rebuilders (92 Ill Adm Code 1020)

-First Notice Published: 19 Ill Reg 4980 - 3/31/95
 -Expiration of Second Notice Period: 7/16/95

Anti-Theft and Abandoned Vehicle Laws (92 Ill Adm Code 1055)

-First Notice Published: 19 Ill Reg 4976 - 3/31/95
 -Expiration of Second Notice Period: 7/16/95

Student Assistance CommissionDavid A. DeBolt Teacher Shortage Scholarship Program (23 Ill Adm Code 2764)

-First Notice Published: 19 Ill Reg 4987 - 3/31/95
 -Expiration of Second Notice Period: 7/19/95

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of May 30, 1995 through June 5, 1995, and have been scheduled for review by the Committee at its June 20, 1995 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield, IL 62706.

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
7/13/95	Environmental Protection Agency, Procedures for Issuing Solid Waste Planning and Enforcement Grants (35 Ill Adm Code 870)	2/24/95 19 Ill Reg 2144	6/20/95
7/13/95	Environmental Protection Agency, General Conditions of State of Illinois Grants for Nonhazardous Solid Waste Planning and Enforcement (35 Ill Adm Code 871)	2/24/95 19 Ill Reg 2103	6/20/95
7/13/95	Department of Professional Regulation, Real Estate Appraiser Certification (68 Ill Adm Code 1455)	4/14/95 19 Ill Reg 5383	6/20/95
7/13/95	Department of Rehabilitation Services, Service Planning and Provision (89 Ill Adm Code 684)	4/14/95 19 Ill Reg 5446	6/20/95
7/13/95	Department of Rehabilitation Services, Program Description (89 Ill Adm Code 676)	4/14/95 19 Ill Reg 5439	6/20/95
7/13/95	Department of Rehabilitation Services, Customer Rights and Responsibilities (89 Ill Adm Code 677)	4/14/95 19 Ill Reg 5427	6/20/95
7/13/95	Department of Rehabilitation Services, Eligibility (89 Ill Adm Code 682)	4/14/95 19 Ill Reg 5431	6/20/95
7/14/95	Department of Alcoholism and Substance Abuse, Subacute Alcoholism and Substance Abuse Treatment Services (77 Ill Adm Code 1106)	3/17/95 19 Ill Reg 3106	6/20/95

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

Code 2090)			
7/16/95	Department of Children and Family Services, Reports of Child Abuse and Neglect (89 Ill Adm Code 300)	3/24/95 19 Ill Reg 3684	6/20/95
7/16/95	Department of Children and Family Services, Services Delivered by the Department (89 Ill Adm Code 302)	3/24/95 19 Ill Reg 3730	6/20/95
7/16/95	Department of Children and Family Services, Access to and Eligibility for Child Welfare Services (89 Ill Adm Code 304)	3/24/95 19 Ill Reg 3601	6/20/95
7/16/95	Department of Children and Family Services, Client Service Planning (89 Ill Adm Code 305)	3/24/95 19 Ill Reg 3619	6/20/95
7/16/95	Department of Children and Family Services, Service Appeal Process (89 Ill Adm Code 337)	3/24/95 19 Ill Reg 3719	6/20/95
7/16/95	Department of Children and Family Services, Licensing Standards for Foster Family Homes (89 Ill Adm Code 402)	3/24/95 19 Ill Reg 3648	6/20/95
7/16/95	Department of Conservation, Squirrel Hunting (17 Ill Adm Code 690)	4/14/95 19 Ill Reg 5374	6/20/95
7/16/95	Department of Conservation, Dove Hunting (17 Ill Adm Code 730)	4/14/95 19 Ill Reg 5386	6/20/95
7/16/95	Department of Public Aid, Diagnosis Related Grouping (DRG) Prospective Payment System (PPS) (89 Ill Adm Code 149)	3/17/95 19 Ill Reg 3139	6/20/95
7/16/95	Department of Public Aid, Hospital Services (89 Ill Adm Code 148)	3/17/95 19 Ill Reg 3167	6/20/95
7/16/95	Secretary of State, Anti-Theft and Abandoned Vehicle Laws (92 Ill Adm Code 1055)	3/31/95 19 Ill Reg 3976	6/20/95

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

7/16/95	Secretary of State, Certificates of Title, Registration of Vehicles (92 Ill Adm Code 1010)	4/14/95 19 Ill Reg 5460	6/20/95
7/16/95	Secretary of State, Dealers, Wreckers, Transporters and Rebuilders (92 Ill Adm Code 1020)	3/31/95 19 Ill Reg 4980	6/20/95
7/19/95	Department of Agriculture, Illinois State Fair, and DuQuoin State Fair, Non-Fair Space Rental and the General Operation of the State Fairgrounds (8 Ill Adm Code 270)	4/21/95 19 Ill Reg 5894	6/20/95
7/19/95	Illinois Student Assistance Commission, David A. DeBolt Teacher Shortage Scholarship Program (23 Ill Adm Code 2764)	3/31/95 19 Ill Reg 4987	6/20/95

PROCLAMATIONS

95-314

SEMINARY DAY
(Revised)

Whereas, the Jewish Theological Seminary of America, the international academic and spiritual center of Conservative Judaism, stands on the threshold of celebrating its 110th anniversary; and

Whereas, the entire Chicago community will focus on the citywide Chicago Annual Awards Dinner being held on behalf of the Jewish Theological Seminary of America on Wednesday evening, June 21, 1995, at the Field Museum of Natural History; and

Whereas, Mr. Harvey L. Miller, prominent businessman and distinguished community leader, is serving as chairman of this very special event; and

Whereas, Mrs. Naomi Futorian will be the recipient of a special award for unprecedented service for her lifetime dedication to Jewish education and her scholarship and devotion to Judaism; and

Whereas, Cantor David Brandhandler will receive the "Hazzan David Putterman" award; and

Whereas, Dr. Ismar Schorsch, Chancellor of the Jewish Theological Seminary of America, will make a special appearance and bestow the awards upon the honorees and deliver the keynote address; and

Whereas, all of the Conservative Rabbis and Cantors, together with the lay leaders of the Jewish communities throughout the state, will gather for this important event;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 21, 1995, as SEMINARY DAY in Illinois.

Issued by the Governor May 18, 1995.

Filed by the Secretary of State June 2, 1995.

95-320

DR. IAN TAYLOR DAY

Whereas, Ian Taylor grew up in Hamilton, Ontario, and graduated from Ontario Veterinary College in 1943; and

Whereas, upon graduation he moved to Detroit Michigan, to conduct antihistamine research for Parke-Davis and later joined a small animal practice in Chicago before opening his own veterinarian clinic; and

Whereas, Dr. Ian W. Taylor is a community booster, serving as the permanent Goodwill Ambassador and International Relations Chairman for the Arlington Heights Lions Club; and

Whereas, as a veterinarian in Wheeling, Illinois, for more than 30 years, Dr. Taylor has spread the message of respect and kindness for animals; and

Whereas, in 1993, Dr. Taylor received the Distinguished Alumnus Award from the Ontario Veterinary College Alumni Association; and

Whereas, Dr. Taylor is an American Veterinary Association honor roll member; and

Whereas, he has served his profession in an outstanding manner for many years and his contributions to the field of veterinary medicine will long be remembered;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June

19, 1995, as DR. IAN TAYLOR DAY in Illinois.
 Issued by the Governor May 22, 1995.
 Filed by the Secretary of State June 2, 1995.

95-321

ALL AMERICAN DAY

Whereas, the U.S. Army Aviation and Troop Command (ATCOM) is holding its 4th Annual All American Observance on June 22, 1995; and

Whereas, the program theme this year is "Striving For A Better Understanding;" and

Whereas, the program is designed to enhance the awareness of the diverse representation of men and women representing all races and cultures in the workforce; and

Whereas, the diversity of the program provides a stimulus for moral growth and fosters strength, character, and good fellowship within the workforce;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 22, 1995, as ALL AMERICAN DAY in Illinois.

Issued by the Governor May 23, 1995.

Filed by the Secretary of State June 2, 1995.

95-322

CHICAGO ACADEMY FOR THE ARTS SPRING BENEFIT DAY

Whereas, this spring marks the 13th Annual Chicago Academy for the Arts Spring Benefit; and

Whereas, the Chicago Academy for the Arts will be honoring Tony DeSantis for his contributions to Illinois' theater community and Academy Award winner Martin Landau with the Distinguished Service Award for the Arts; and

Whereas, the Chicago Academy for the Arts has long been recognized as a breeding ground for local talent in the performing arts and is one of five schools of its kind in the country;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 5, 1995, as CHICAGO ACADEMY FOR THE ARTS SPRING BENEFIT DAY in Illinois and urge all citizens to show their support.

Issued by the Governor May 23, 1995.

Filed by the Secretary of State June 2, 1995.

95-323

WOMEN'S BUSINESS DEVELOPMENT DAY

Whereas, the Women's Business Development Center (WBDC) is a nationally-recognized non profit women's business assistance organization devoted to providing services and programs that support and accelerate women's business ownership and strengthen the impact of women on the economy; and

Whereas, the Women's Business Development Center will hold its 9th Annual Entrepreneurial Woman's Conference September 14, 1995, at Chicago's Navy Pier; and

Whereas, the Entrepreneurial Woman's Conference has grown to become the principal event for women who are considering going into their own business, women who have been in business and are ready to expand, women entrepreneurs

seeking financing, and women who want to do business with government agencies and corporations; and

Whereas, this year's conference, "Contract with Women: Cultivating New Markets," highlights internationally-recognized women business owners and offers workshops to explore all aspects of planning, owning, expanding, marketing, and financing a business; and

Whereas, the annual Business and Buyers Mart at the conference is a once-a-year exceptional opportunity for women business owners to meet purchasing representatives from government and corporations; and

Whereas, the WBDC was founded in 1986 by Carol Dougal and Hedy Ratner, and since then more than 20,000 women business owners have used its programs and services which include one-on-one counseling, workshops, entrepreneurial training, the Women's Business Finance Program, the Women's Business Enterprise Initiative, and employment and training resources; and

Whereas, there are now more than 5.4 million women business owners in the U.S. -- with more than 250,000 in Illinois -- employing 11 million people, which comprises more than 10 percent of all American workers;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 14, 1995, as WOMEN'S BUSINESS DEVELOPMENT DAY in Illinois to honor the Entrepreneurial Woman's Conference and the WBDC's outstanding advocacy and service to women business owners.

Issued by the Governor May 23, 1995.

Filed by the Secretary of State June 2, 1995.

95-324

FIREFIGHTERS APPRECIATION MONTH

"Not a gift of a cow, nor a gift of land, nor yet a gift of food, is so important as the gift of safety, which is declared to be the great gift among all gifts in this world."

Panchatantra (c. 5th century)

Whereas, firefighters are prepared to sacrifice their lives at all times in their professional service to their communities; and

Whereas, their immense contributions, both of personal risk and time devoted to public service, need to be acknowledged; and

Whereas, last year, firefighters in more than 100 Illinois communities raised and donated more than \$200,000 to the Muscular Dystrophy Association (MDA);

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim August 1995 as FIREFIGHTERS APPRECIATION MONTH in Illinois in conjunction with MDA's recognition of their efforts.

Issued by the Governor May 24, 1995.

Filed by the Secretary of State June 2, 1995.

95-325

POM PON APPRECIATION DAY

Whereas, Allstate Insurance Company is again sponsoring the "Allstate Open Pom Pon Competition;" and

Whereas, more than 1,000 young women from 50 mid-western high school pom pon squads will be demonstrating their hard work and talents to the thousands

of people in the audience; and

Whereas, pom pon squads promote responsibility, excellence, and dedication; and

Whereas, it also increases the awareness and importance of women's athletics and instills coordination and agility and emphasizes good health; and

Whereas, activities such as pom pons add to the family entertainment value and the beauty of high school sporting events; and

Whereas, pom pon squads demonstrate the necessity and value of teamwork and strengthen the spirit of competition;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim August 13, 1995, as POM PON APPRECIATION DAY in Illinois.

Governor May 24, 1995.

Filed by the Secretary of State June 2, 1995.

95-326

REV. JOHN RICE DAY

Whereas, Rev. John Rice was born in Starksville, Mississippi, on May 14, 1938; and

Whereas, he was educated in the elementary schools of Chicago Heights, graduated from Bloom Township High School, Prairie State College, and Moody Bible Institute, and later received a degree in Communication Science from Governors State University; and

Whereas, on December 24, 1959, he married Movita Tate, and with her had four children -- John, Sharlola, Kyle, and Kandace; and

Whereas, he has two sons-in-law, Claude and Steven, one daughter-in-law, Cherry, and three grandchildren, Andrae', D'yonna, and NeTanya; and

Whereas, Rev. Rice is past president of Ministerial Alliance of Chicago Heights, Illinois, a former chaplain of the Chicago Heights Police Department, and a former commissioner of the Police and Fire Board of University Park, Illinois; and

Whereas, he serves as a board member of Beverly Bank of Matteson, Illinois, and the Chicago Theological Seminary; and

Whereas, he has served as pastor of Boyhood Church for 23 years and is an originator of the Bethel Community Facility; and

Whereas, Rev. John Rice celebrates his 25th anniversary of serving as minister at St. Bethel Missionary Baptist Church on June 25, 1995;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 25, 1995, as REV. JOHN RICE DAY in Illinois.

Issued by the Governor May 24, 1995.

Filed by the Secretary of State June 2, 1995.

95-327

MEN'S HEALTH WEEK

Whereas, the goal of National Men's Health Week is to raise national awareness among society, and especially among men, of the importance of preventive health behavior in the early detection and treatment of health problems affecting men and their families; and

Whereas, despite the advances in medical technology and research, men continue to live an average of seven years less than women; and

Whereas, women visit the doctor three times more often than men, enabling

them to detect health problems in their early stages; and

Whereas, significant numbers of male-related health problems, such as prostate cancer, testicular cancer, infertility, and colon cancer, could be detected and treated if men's awareness of these problems was more pervasive; and

Whereas, educating both the public and health care providers about the importance of early detection of male health problems will result in reducing rates of mortality from these diseases; and

Whereas, appropriate use of tests, such as Prostate Specific Antigen (PSA) exams, blood pressure screens, cholesterol screens, etc., in conjunction with clinical examination and self-testing for problems such as testicular cancer, provides detection in the early stages and increase the survival rate to nearly 100 percent; and

Whereas, many men are reluctant to visit their health center or physician for regular screening examinations of male-related problems for a variety of reasons, including fear, lack of information, and cost factors; and

Whereas, men who are educated about the value that preventive health can play in prolonging their lifespan and their role as a productive family member will be more likely to participate in health screening;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 12-18, 1995, as MEN'S HEALTH WEEK in Illinois.

Issued by the Governor May 26, 1995.

Filed by the Secretary of State June 2, 1995.

95-328

PUERTO RICAN WEEK

Whereas, the Puerto Rican community, a strong and important force in the State of Illinois, is a community that enriches Illinois culturally and economically; and

Whereas, the Puerto Rican community has honored its heritage for the last 30 years with patriotic festivals and continues the tradition with the Puerto Rican Parade in Chicago; and

Whereas, the Puerto Rican Parade Committee of Chicago and its president, Elias Diaz y Perez, have organized this year's festivities with great dedication; and

Whereas, the Puerto Rican community in Illinois celebrates the "First Centennial of the Puerto Rican Flag;" and

Whereas, this week's patriotic festival promotes community and cultural unity in Illinois;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 6-11, 1995, as PUERTO RICAN WEEK in Illinois in recognition of the contributions of the Puerto Rican community has made to the vitality and growth of our state.

Issued by the Governor May 26, 1995.

Filed by the Secretary of State June 2, 1995.

95-329

CHALLENGE OF CHAMPIONS DAY

Whereas, the Physically Handicapped Public Schools of Chicago were established to provide comprehensive educational and health services for

physically handicapped children; and

Whereas, these unique schools prescribe individualized services for each student with the support of staff, parents, and medical resources; and

Whereas, the 16th annual City-Wide Challenge of Champions is being held on Friday, June 2, 1995, at the South Shore Cultural Center; and

Whereas, the participants include 3 to 15 year- old children who have Cerebral Palsy, Muscular Dystrophy, Hemophilia, and Sickle Cell Anemia; and

Whereas, more than 3,000 students, staff, parents, and volunteers are expected to attend and participate;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 2, 1995, as CHALLENGE OF CHAMPIONS DAY in Illinois.

Issued by the Governor May 31, 1995.

Filed by the Secretary of State June 2, 1995.

95-330

GARDEN WEEK

Whereas, the Garden Clubs of Illinois, in cooperation with the National Council of State Garden Clubs, is promoting National Garden Week in Illinois; and

Whereas, setting aside a special week to strengthen communities by encouraging citizens of all ages to work toward common goals; and

Whereas, among Garden Week activities are educational programs, environmental cleanup, community beautification, flower shops, garden walks, youth activities, and workshops; and

Whereas, the Garden Clubs of Illinois is a non-profit organization with more than 9,000 members and 250 clubs throughout Illinois; and

Whereas, the members are concerned citizens willing to devote their time and talents to the conservation, preservation, and beautification of our state's natural treasures and to expand and share our knowledge for the betterment of the environment; ~~tf~~ Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 4-10, 1995, as GARDEN WEEK in Illinois.

Issued by the Governor May 31, 1995.

Filed by the Secretary of State June 2, 1995.

95-331

LUCY FLOWER DAY

Whereas, Lucy Louise Coues, the adopted child of Samuel and Charlotte Coues, was born in Boston, Massachusetts, on May 10, 1837; and

Whereas, she attended public schools and the Packer Collegiate Institute of Brooklyn, New York; and

Whereas, she began her career by teaching at a public school in Madison, Wisconsin, where she met her husband, James Monroe Flower; and

Whereas, together they had three children, Elliott, Harriet Dean, and Louise Bertam; and

Whereas, the family moved to Chicago, Illinois, and Mrs. Flower started her civic work; and

Whereas, she was a member of the Board of Trustees of the Chicago Home for the Friendless; and

Whereas, Mrs. Flower's main accomplishments were the introduction of the kindergarten to grade schools and the furthering of a juvenile court; and

Whereas, she helped establish a technical school for girls whose purpose is to give instruction in subjects of practical value to women throughout their lives; and

Whereas, the Lucy Flower Technical High School was opened and operating before her death and has grown through untiring efforts to promote the school; and

Whereas, Lucy Flower's hard work and dedication to women will forever be appreciated by the students of the Lucy Flower Technical High School;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 3, 1995, as LUCY FLOWER DAY in Illinois.

Issued by the Governor May 31, 1995.

Filed by the Secretary of State June 2, 1995.

95-332

TEACHER'S DAY

Whereas, for hundreds of years, teachers have been given the responsibility and job of educating students in schools worldwide; and

Whereas, teachers are important role models and friends to the students they serve; and

Whereas, teachers donate many long, hard-working hours to the benefit of their students; and

Whereas, teachers are dedicated to the youth of this generation and teach them how to become leaders for generations to follow; and

Whereas, the role of the teacher has become increasingly important as they are made to deal with many new and different issues and problems facing today's students; and

Whereas, teachers are appreciated for all they do for students;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 5, 1995, as TEACHER'S DAY in Illinois.

Issued by the Governor May 31, 1995.

Filed by the Secretary of State June 2, 1995.

95-333

VOCATIONAL EDUCATION WEEK

Whereas, the Illinois Vocational Association has designated the week of February 11-17, 1996, as Vocational Education Week; and

Whereas, the theme for Vocational Education Week is "Vocational-Technical Education: School-to-Work Transition"; and

Whereas, vocational education supplies Illinois with a strong, well-trained work force that enhances productivity in business and industry and contributes to the state's leadership in the national and international marketplace; and

Whereas, vocational education stimulates the growth and vitality of businesses and industries by preparing workers for the occupations forecast to experience the largest and fastest growth in the next decade; and

Whereas, vocational education serves individual citizens by enabling them to find satisfying careers suited to their own skills and interests, by providing technical skills that allow them to excel in their chosen careers, and by teaching leadership skills that serve them on the job, at home, and in the community; and

Whereas, a strong vocational education program planned and carried out by trained vocational educators is vital to the future economic development of our state and the well-being of its citizens;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim February 11-17, 1996, as VOCATIONAL EDUCATION WEEK in Illinois and urge all citizens to become familiar with the services and benefits offered by the vocational education programs in our state and to support and participate in these programs as necessary to enhance individual work skills and productivity.

Issued by the Governor May 31, 1995.

Filed by the Secretary of State June 2, 1995.

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